







# THE BENGAL CODE.

VOLUME I.

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# THE BENGAL CODE,

IN FIVE VOLUMES

CONTAINING

THE REGULATIONS AND LOCAL ACTS

IN FORCE IN BENGAL,

WITH

CHRONOLOGICAL AND OTHER TABLES AND LISTS,  
NOTES AS TO SCHEDULED DISTRICTS AND DE-REGULATIONISED TRACTS, AND  
NOTIFICATIONS DECLARING ENACTMENTS IN FORCE IN, OR EXTENDING ENACTMENTS  
TO, SUCH DISTRICTS AND TRACTS,

AND

A FULL INDEX.

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THIRD EDITION.

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EDITED BY

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OF THE INNER TEMPLE, BARRISTER AT LAW,  
OFFICIATING DEPUTY SECRETARY TO THE GOVERNMENT OF INDIA IN THE  
LEGISLATIVE DEPARTMENT

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VOLUME I.

ENACTMENTS—A TO G.

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CALCUTTA:

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THIS, the first volume of the third edition of the Bengal Code, contains such of the Regulations and local Acts in force in Bengal as have been grouped under headings commencing with the letters A to G. The system followed in editing the volume is described in the general explanatory note prefixed to Volume V of the Code, which is now in the Press.

2 In the Appendix (*post*, pp 571 to 577) are printed two Regulations which were passed after the pages which they affect had been printed off, and in the Corrigenda (*post*, pp xv and xvi) are noted the corrections which should be made in those pages in consequence of the passing of those Regulations.

F G WIGLEY,

*Officiating Deputy Secretary to the  
Government of India, Legislative Department.*

CALCUTTA ,  
*The 2nd January, 1905.*





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# CORRIGENDA.

PAGE 9, first foot note, line 2 — *For 2 substitute 12*

PAGE 65, foot-note, line 6 — *Strike out the words a list of*

PAGE 69 — *Before* foot note [2] *insert* —

For power to make rules prohibiting cruelty in a public park, *see* the Bengal Public Parks Act, 1904 (Ben Act 2 of 1904), s 4 (e), (j), in Vol IV of this Code

PAGE 75, foot note [2], line 8 — *For ibid substitute* the Board's Rules, 1902

PAGE 80, section 1 — *For* Board's *substitute* Boards

PAGE 104, foot note, line 24 — *For* 1880 *substitute* 1900

PAGE 219, foot note [3], line 2 — *For* s 6 of the same Act *substitute* the Court of Wards Act (Bengal) Amendment Act, 1892 (4 of 1892), s 6

PAGE 254 —

*After* Reg 1 of 1894 *insert* —

Reg 4 of 1904 the Angul District (Amendment) Regulation, 1904

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*After* Reg 3 of 1900 *insert* —

Reg 2 of 1904 the Sonthal Parganas Settlement Regulation, 1904 . . . . . 576

PAGE 257, section 2 line 2 — *For* that portion of Killah Bod *substitute* the area—*see* Reg 4 of 1904, s 2, *post*, p 571

PAGE 258 — At the end of section 3 (2) an Explanation has been added by Reg 4 of 1904, s 3, *printed post*, p 571

PAGE 260 —

In section 10, clause (h), *for* Tahsildar *substitute* Sub divisional officer—*see* Reg 4 of 1904, s 4, *post*, p 571

For section 10, clause (i), a new clause has been substituted by Reg 4 of 1904, s 5 (1), *post*, p 571

In section 10, clause (j), *for* any such demand as is mentioned in clause (i) *substitute* any demand due to the Government and accruing within the district of Angul—*see* Reg 4 of 1904, s 5 (2), *post*, p 571

For section 11 a new section has been substituted by Reg 4 of 1904, s 6, *post*, p 572

In section 12 *strike out the words* with the previous sanction of the Governor General in Council *They have been repealed by* Reg 4 of 1904, s 7, *post*, p 572

In section 13, para 2, line 1, *for* Tahsildars *substitute* Sub-divisional Officers—*see* Reg 4 of 1904, s 4, *post*, p 571

PAGE 261 —

For section 15 a new section has been substituted by Reg. 4 of 1904, s. 8, *post*, p. 572

*Strike out the foot-notes.*

PAGE 263, section 25(a), line 1 — *For* Tahsildar *substitute* Sub divisional Officer—*see* Reg 4 of 1904, s 4, *post*, p 571.

PAGE 265, section 34, lines 1 and 4. — *For* Tahsildar *substitute* Sub-divisional Officer—*see* Reg. 4 of 1904, s. 4, *post*, p. 571.

PAGE 266. —

In section 36, line 3, section 37, line 1, section 38, line 2, section 40, lines 1 and 3, and section 41, line 1, *for* Tahsildar *substitute* Sub-divisional Officer—*see* Reg. 4 of 1904, s. 4, *post*, p. 571



PAGE 266 (*contd*) —

For section 39 a new section has been substituted by Reg 4 of 1904, s 9, *post*, p 574

After section 41, section 41A has been inserted by Reg 4 of 1904, s 10, *post*, p 574

In section 42, line 2, *before* appoint *insert* after consulting the residents—*see* Reg 4 of 1904, s 11, *post*, p 574

For section 43 a new section has been substituted by Reg 4 of 1904, s 12, *post*, p 574

PAGE 267 —

In section 47, clause *first*, line 6, *after* riot *insert* administering stupefying or intoxicating drugs with intent to cause hurt, kidnapping, unlawful assembly or violent affray—*see* Reg 4 of 1904, s 13 (1), *post*, p 575

In section 47, clause *second*, line 1, *after* offenders *insert* and escaped convicts—*see* Reg 4 of 1904, s 13 (2), *post*, p 575

In section 47, clause *second*, line 3, *after* specified *insert* also any person against whom a hue and cry has been raised of his having been concerned in any such offence, whether such offence has been or is being committed within or outside his village—*see* Reg 4 of 1904, s 13 (2), *post*, p 575

PAGE 268—

To section 47, clause *third*, certain words have been added by Reg 4 of 1904, s 13 (3), *post*, p 575.

In section 47, clause *fourth*, line 2, *after* suspicious characters *insert* or vagrants or wandering gangs—*see* Reg 4 of 1904, s 13 (4), *post*, p 575

PAGE 269, line 1 —For tahsildar substitute Sub divisional Officer—*see* Reg 4 of 1904, s 4, *post*, p 571

PAGE 270 —

Before section 55, sections 54A and 54B have been inserted by Reg 4 of 1904, s 14, *post*, p 575

In section 55, line 2, for tahsildar substitute Sub-divisional Officer—*see* Reg 4 of 1904, s 4, *post*, p 571

PAGE 271 —In section 60, line 3, *after* and *insert* except in so far as the Local Government otherwise directs—*see* Reg 4 of 1904, s 15, *post*, p 575

PAGE 275 —At the end of the page *insert*—

## THE ANGUL DISTRICT (AMENDMENT) REGULATION, 1904

(REGULATION 4 OF 1904)

[ Printed *post*, p 571 ]

PAGE 293, foot-note [1], line 7 —*After* p 316 *insert*.—

The Sonthal Parganas Settlement Regulation, 1904 (2 of 1904), is to be read with, and taken as part of, this Regulation—*see* Regulation 4 of 1904, s 1 (2), *post*, p. 576.

PAGE 296, section 9, line 4 —*After* lands *insert* [5], and *add* the following foot-note at the bottom of the page —

[5] As to the apportionment of expenses when a declaration is made under s 9, *see* the Sonthal Parganas Settlement Regulation, 1904 (2 of 1904), *post*, p 576

PAGE 307, foot note [8], line 1 —For Act substitute Acts.

PAGE 341 —At the end of the page *insert* —

## THE SONTAL PARGANAS SETTLEMENT REGULATION, 1904

(REGULATION 2 OF 1904).

[ Printed *post*, p. 576. ]

PAGE 392, foot-note, line 10 —*After* Regulation *strike out* 1872.



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## VOLUME I.

### ACTS AND REGULATIONS.

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### THE BENGAL GENERAL CLAUSES ACT, 1899

(BENGAL ACT 1 OF 1899.)

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## ACTS AND REGULATIONS

## GENERAL CLAUSES

[Ben Act 1

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of 1899 ]

GENERAL CLAUSES

(Preliminary —Sec 1)

THE BENGAL GENERAL CLAUSES ACT, 1899

(BENGAL ACT 1 OF 1899) [1]

[18th January, 1899.]

An Act for further shortening the language used in Bengal Acts, and for other purposes

WHEREAS it is expedient further to shorten the language used in Bengal Acts, and to make certain other provisions relating to those Acts, It is hereby enacted as follows

PRELIMINARY

1 This Act may be called the Bengal General Clauses Act, 1899

Short title

2 [ *Repeal of Bengal Act 5 of 1867* ] *Rep by the Repealing and Amending Act, 1903 (1 of 1903)*

[1] LEGISLATIVE PAPERS —For Statement of Objects and Reasons, *see* Calcutta Gazette, 1898, Pt IV, p 570, and for Proceedings in Council *see ibid*, Supplement, 1898, pp 1426, 1428, 1579 and 2538

LOCAL EXTENT —Since this Act has no "local extent" clause, it must be taken to extend to the whole of Bengal It is in force in all the de regulationised tracts in Bengal *see—*

as to the Angul District Vol V, Part VI, B (a),  
as to the Chittagong Hill tracts, *ib*, Part VI, B (b) and  
as to the Sonthal Parganas, *ib*, Part VI, B (c)

REPRINT —This Act is reprinted in the Bengal Legislative Council Manual, 1900, p 51

OTHER SIMILAR ACTS —This Act closely follows the General Clauses Act, 1897 (10 of 1897), passed by the Governor General in Council (printed in the General Acts 1-91 98, Ed 1899, p 316), and some of its clauses are based on clauses of the Interpretation Act, 1889 (52 & 53 Vict, c 63), printed in the Collection of Statutes relating to India, Vol II, Ed. 1901, p 862 Similar Acts have been passed by each of the other Legislative Councils in India, *viz*, Madras Acts 1 of 1867 and 1 of 1891, Bombay Act 3 of 1886, Punjab Act 1 of 1898 Burma Act 1 of 1898, and United Provinces Act 1 of 1901

APPLICATION OF THE VARIOUS GENERAL CLAUSES ACTS —The General Clauses Act, 1897, applies, for the most part, only to Acts of the Governor General in Council and to Regulations made under the Government of India Act, 1870 (33 & 34 Vict, c 3), printed in the Collection of Statutes relating to India, Vol. I, Ed 1899, p 451, but s 12 applies also to Indian enactments of all kinds, including, among others, Bengal Acts The section runs as follows —

"12 Where, by any enactment now in force or hereafter to be in force, any duty of customs or excise, or in the nature thereof, is leviable on any given quantity, by weight, measure or value of any goods or merchandise, then a like duty is leviable according to the same rate on any greater or less quantity"

Duty to be taken *see* 7264

The Bengal General Clauses Act, 1899, is expressed, in every section except ss 27 and 30, to apply only to Bengal Acts.

The Interpretation Act, 1889, applies only to Acts of Parliament.

The Acts of the Madras, Bombay, Punjab, Burma and United Provinces Councils have effect only in the provinces in which they were respectively passed.

## ACTS AND REGULATIONS

## GENERAL CLAUSES

[Ben Act 1

## (General Definitions—Sec 3)

## GENERAL DEFINITIONS

Definitions	3 In this Act, and in all Bengal Acts made after the commencement of this Act, [1] unless there is anything repugnant in the subject or context,—	
"Abet"	(1) "abet," with its grammatical variations and cognate expressions, shall have the same meaning as in the Indian Penal Code[ <sup>2</sup> ],	45 of 1860
"Act"	(2) [3] "act," used with reference to an offence or a civil wrong, shall include a series of acts, and words which refer to acts done shall extend also to illegal omissions,	
"Affidavit"	(3) [4] "affidavit" shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing,	
"Barrister"	(4) [5] "barrister" shall mean a barrister of England or Ireland, or a member of the Faculty of Advocates in Scotland,	
"Bengal"	(5) "Bengal" shall mean the territories within British India for the time being under the administration of the Lieutenant-Governor of Bengal,	
"Bengal Act"	(6) [6] "Bengal Act" shall mean an Act made by the Lieutenant-Governor of Bengal in Council under [7] [the Indian Councils Act, 1861, or ] the Indian Councils Acts, 1861 [8] and 1892 [9],	24 & 25 Vict, c 67, 55 & 58 Vic, c 14.
"Chapter"	(7) "Chapter" shall mean a Chapter of the Act in which the word occurs,	

[1] Some of the definitions in this section apply also to Bengal Acts made between the 1st June, 1867, and the commencement of the present Act—see s 4, *post*, p 8 For two further definitions applying to such Acts, see s 5, *post*, p 8

[2] See Act 45 of 1860, ss 107, 108 and 108A, in General Acts, 1834-67, Ed 1898 pp 265 to 267

[3] Cf s 33 of the Indian Penal Code (Act 45 of 1860), in General Acts 1834-67, Ed 1898, p 247

[4] Cf the definitions of "oath" and "swear" in clauses (29) and (44), *post*, pp 7 and 8 for the law relating to judicial oaths affirmations and declarations, see the Indian Oaths Act, 1873 (10 of 1873), in General Acts, 1868-76, Ed 1898, p 411

As to affidavits to be used before Civil Courts see also ss 194 to 197 of the Code of Civil Procedure (Act 14 of 1882) in General Acts, 1882-84, Ed 1898, pp 317, 318

As to affidavits to be used before a High Court in criminal matters see also s 539 of the Code of Criminal Procedure, 1898 (Act 5 of 1898), in General Acts, 1891-98, Ed 1899, p 540.

[5] For a similar definition, see the Indian High Courts Act, 1861 (24 & 25 Vict, c 104), s 19, printed in the Collection of statutes relating to India Vol I, Ed, 1891, p 361

[6] A similar definition is given in clause (5) of section 3 of the General Clauses Act, 1897 (10 of 1897), printed in the General Acts, 1891-98, Ed 1899, p 317 The definition was inserted in order to introduce a uniform method of citing Acts of the Bengal Council and to suggest the abandonment of the various other methods formerly adopted, e g, "Act (B C) of 1869," "Act 1 of 1869 passed by the Lieutenant Governor of Bengal in Council." The method of citation most commonly adopted was "Act 1 (B C) of 1869," but the abbreviation "(B. C)" is peculiarly inappropriate, inasmuch as it would stand equally well for Acts of the Bombay or Burma Council, and is the recognized abbreviation for Before Christ

[7] These words and figures in square brackets in s 3 (6) were inserted by the Repealing and Amending Act, 1908 (1 of 1908), *post*

[8] Printed in the Collection of Statutes relating to India, Vol. I, Ed 1899, p 341

[9] Printed in *ib* Vol. II, Ed. 1901, p. 911



of 1899 ]

GENERAL CLAUSES

(General Definitions—Sec 3)

- (8) "Collector" shall mean, in Calcutta, the Collector of Calcutta, and elsewhere the chief officer in charge of the revenue-administration of a district, "Collector"
- (9) [1] "commencement," used with reference to an Act, shall mean the day on which the Act comes into force, "Commencement"
- (10) "Commissioner" shall mean the chief officer in charge of the revenue administration of a division, "Commissioner"
- (11) [2] "Consular officer" shall include consul-general, consul, vice-consul, consular agent, pro-consul and any person for the time being authorized to perform the duties of consul-general, consul, vice-consul or consular agent, "Consular officer"
- (12) "District Judge" shall mean the Judge of a principal Civil Court of original jurisdiction, but shall not include a High Court in the exercise of its ordinary or extraordinary original civil jurisdiction, "District Judge"
- (13) [3] "document" shall include any matter written, [4] expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, which is intended to be used or which may be used, for the purpose of recording that matter, "Document"
- (14) "enactment" shall include a Regulation (as hereinafter [5] defined) and any Regulation of the Bengal Code, and shall also include any provision contained in any Act or in any such Regulation as aforesaid; "Enactment"
- (15) "father," in the case of anyone whose personal law permits adoption, shall include an adoptive father, "Father"
- (16) "financial year" shall mean the year commencing on the first day of April, "Financial year"
- (17) [6] a thing shall be deemed to be done in "good faith" where it is in fact done honestly, whether it is done negligently or not; "Good faith"

[1] As to when an Act comes into force, see s 6, *post*, p 9

[2] For a similar definition, see the Consular Salaries and Fees Act, 1891, (54 & 55 Vict, c 36), s 3

[3] For similar definitions, see the Indian Penal Code (Act 45 of 1860), s 29, in General Acts, 1834-67, Ed 1898 p 246, and the Indian Evidence Act, 1872 (1 of 1872), s 3, in General Acts, 1868-76, Ed 1898, p. 224.

[4] As to construction of expressions referring to writing, see clause (47) of this section, *post*, p 1

[5] See clause (35) of this section, *post*, p. 7.

[6] For a similar definition, see the Bills of Exchange Act, 1882 (45 & 46 Vict, c. 61), s. 90, and the Sale of Goods Act, 1893 (55 & 56 Vict, c 71), s 62 (2)

For discussion in His Excellency the Viceroy's Council upon the similar definition of "good faith" contained in clause (20) of section 3 of the General Clauses Act, 1897, see Gazette of India, March, 1897, Pt. VI, pp. 55 to 62 and 76 to 79

The definition in the present Act differs from the definition of "good faith" contained in s 52 of the Indian Penal Code (Act 45 of 1860 printed in General Acts, 1834-67, Ed. 1898, p. 250).

*(General Definitions—Sec 3.)*

- “Government” (18) [1] “Government” or “the Government” shall include the Local Government [2] as well as the Government of India,
- “Government of India” (19) Government of India” shall mean the Governor General in Council or, during the absence of the Governor General from his Council, the President in Council, or the Governor General alone, as regards the powers which may be lawfully exercised by them or him respectively,
- “Her Majesty” or “the Queen” (20) [3] “Her Majesty” or “the Queen” shall include Her successors,
- “Immoveable property” (21) [4] “immoveable property” shall include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth,
- “Imprisonment” (22) “imprisonment” shall mean imprisonment of either description [5] as defined in the Indian Penal Code, 15 of 1860
- “Local authority” (23) [6] “local authority” shall mean a Municipal Committee, District Board, body of Port Commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund,
- “Local Government” (24) “Local Government” shall mean the Lieutenant-Governor of Bengal,
- “Magistrate” (25) “Magistrate” shall include every person exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure [7] for the time being in force, 5 of 1898
- “Master” (of a ship) (26) [8] “master,” used with reference to a ship, shall mean any person (except a pilot or harbour-master) having for the time being control or charge of the ship,

[1] For a similar definition, see the concluding clause of s 3 of the Code of Civil Procedure (Act 14 of 1882), printed in General Acts, 1882 84, Ed 1898, p 264

[2] For definition of “Local Government” see clause (24) of this section, *post*, p 6

[3] As to His Majesty’s title as Emperor of India, see the Royal Titles Act, 1901 (1 Edw 7, c 15), and Proclamation published in Gazette of India, 1901, Pt I, p 94

[4] The expression “immoveable property” is defined differently in the Indian Registration Act 1877, s 3, printed in General Acts, 1877 81, Ed 1898, p 43 For a definition of “land,” applicable to Bengal Acts made between the 1st June, 1867, and the 18th January, 1899, see s 5, *post*, p 8.

[5] *i.e.*, rigorous or simple see s 53 of Act 45 of 1860, in General Acts, 1864 67, Ed 1898, p 250

[6] For a very similar definition, see the Local Authorities Loan Act, 1879 (11 of 1879), s. 3, in General Acts, 1877 81, Ed 1898, p 260

[7] The Code now in force is Act 5 of 1898, printed in General Acts, 1891 98, Ed 1899, p 380

[8] For a similar definition, see the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60), s 742, in the Collection of Statutes relating to India, Vol. II, Ed 1901, p. 1210.

of 1899 ]

GENERAL CLAUSES

(General Definitions — Sec 3)

45 of 1860

3 of 1877

33 & 34  
Vict., c 3

14 of 1874.

- (27) "month" shall mean a month reckoned according to the British "Month" calendar,
- (28) "moveable property" [1] shall mean property of every description, "Moveable property" except immoveable property,
- (29) "oath" shall include affirmation and declaration in the case of "Oath" persons by law allowed to affirm or declare instead of swearing [2],
- (30) [3] "offence" shall mean any act or omission made punishable by "Offence" any law for the time being in force,
- (31) "part" shall mean a part of the Act in which the word occurs, "Part"
- (32) [4] "person" shall include any company or association or body of "Person" individuals, whether incorporated or not,
- (33) "public nuisance" shall mean a public nuisance as defined in the "Public nuisance" Indian Penal Code [5],
- (34) "registered," used with reference to a document, shall mean regis- "Registered" tered in British India under the law [6] for the time being in force for the registration of documents,
- (35) "Regulation" shall mean a Regulation made under the Govern- "Regulation" ment of India Act, 1870 [7],
- (36) [8] "rule" shall mean a rule made in exercise of a power conferred "Rule" by any enactment, and shall include a regulation made as a rule under any enactment,
- (37) "Schedule" shall mean a schedule to the Act in which the word "Schedule" occurs,
- (38) "Scheduled District" shall mean a "Scheduled District" as defined "Scheduled District" in the Scheduled Districts Act, 1874 [9],
- (39) "section" shall mean a section of the Act in which the word "Section" occurs,

[1] For a comprehensive definition of the word "property," see s 168 of the Bankruptcy Act, 1883 (46 & 47 Vict., c 52)

[2] Of the definition of "affidavit" in clause (3) *ante*, p 4, and see the foot-notes thereto

[3] For a similar definition, see s 4 (c) of the Code of Criminal Procedure, 1898 (Act 5 of 1898), in General Acts, 1891-98, Ed 1899, p 384

[4] For a different definition of "person," applicable to Bengal Acts made between the 1st June, 1867, and the 18th January, 1899, see s. 5, *post*, p 8

[5] See Act 45 of 1860, s 268, in General Acts, 1864-67, Ed 1898, p 313 For procedure in dealing with public nuisances, see Ch. X of the Code of Criminal Procedure, 1893, printed in General Acts, 1891-98, Ed. 1899, p. 424

[6] See the Indian Registration Act, 1877 (3 of 1877), in General Acts, 1877-81, Ed. 1898, p 41

[7] Printed in the Collection of Statutes relating to India, Vol. I, Ed 1899, p. 451.

[8] For provisions as to rules, see ss 21 to 26, 29 and 30, *post*, pp. 11 to 14.

[9] Printed in General Acts, 1868-76, Ed. 1898, p 467.

- “Ship” (40) [1] “ship” shall include every description of vessel [2] used in navigation not exclusively propelled by oars,
- “Sign” (41) “sign,” with its grammatical variations and cognate expressions, shall, with reference to a person who is unable to write his name, include “mark” with its grammatical variations and cognate expressions,
- “Son” (42) “son,” in the case of anyone whose personal law permits adoption, shall include an adopted son,
- “Sub-section” (43) “sub-section” shall mean a sub-section of the section in which the word occurs,
- (44) [3] “swear,” with its grammatical variations and cognate expressions, shall include affirming and declaring in the case of persons by law allowed to affirm or declare instead of swearing,
- “Vessel” (45) [4] “vessel” shall include any ship [5] or boat or any other description of vessel used in navigation,
- “Will” (46) [6] “will” shall include a codicil and every writing making a voluntary posthumous disposition of property,
- “Writing” (47) expressions referring to “writing” shall be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form, and
- “Year” (48) “year” shall mean a year reckoned according to the British calendar [7]

Application of certain of the foregoing definitions to previous Bengal Acts.

4 The definitions in section 3 of the following words, that is to say, “affidavit,” “Magistrate,” “month,” “oath,” and “swear,” apply also, unless there is anything repugnant in the subject or context, to all Bengal Acts made between the first day of June, 1867, and the commencement of this Act

Continuance of certain

5. In all Bengal Acts made between the first day of June, 1867, and the

[1] For a similar definition, see the Merchant Shipping Act, 1894 (57 & 58 Vict., c 60), s. 742, in the Collection of Statutes relating to India, Vol. II, Ed 1901 p 1209

[2] For definition of “vessel,” see clause (46) of this section, *post*, p 8

[3] Cf the definition of “affidavit” in clause (3) *ante*, p 4, and see the foot notes thereto

[4] For a similar definition, see the Merchant Shipping Act, 1894 (57 & 58 Vict., c 60), s 742, in the Collection of Statutes relating to India, Vol. II, p 1209.

The word “vessel” is differently defined in the Indian Penal Code (Act 45 of 1860), s 48, printed in General Acts, 1894-67, Ed 1898, p 250

[5] For definition of “ship,” see clause (40) of this section, *ante*, p 8

[6] The word “will” is differently defined in the Indian Succession Act, 1865 (10 of 1865), s. 3, printed in General Acts, 1894-67, Ed 1898, p 469

[7] For definition of “financial year,” see clause (16), *ante*, p 5

of 1899 ]

GENERAL CLAUSES

(General Rules of Construction—Secs 6-8.)

commencement of this Act, unless there is anything repugnant in the subject or context,—

definitions for purposes of previous Bengal Acts

- (1) "land" includes houses and buildings and corporeal hereditaments and tenements of any tenure, unless where there are words to exclude houses and buildings or to restrict the meaning to tenements of some particular tenure, and
- (2) "person" includes any incorporated company or incorporated association of persons

GENERAL RULES OF CONSTRUCTION

6 (1) Where any Bengal Act is not expressed to come into operation on a particular day, [1] then it shall come into operation on the day on which it is first [2] published in the Calcutta Gazette after having received the assent of the Governor General

Coming into operation of Bengal Acts

(2) Unless the contrary is expressed, a Bengal Act shall be construed as coming into operation immediately on the expiration of the day preceding its commencement

7 In this Act, and in every Bengal Act made after the commencement of this Act, the date of such publication as is mentioned in section 6, sub-section (1), shall be printed above the title of the Act, and shall form part of the Act

Printing of date on which Act is published after having received the assent of the Governor General

8 Where this Act, or any Bengal Act made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not—

Effect of repeal

- (a) revive anything not in force or existing at the time at which the repeal takes effect, or
- (b) affect the previous operation of any enactment so repealed or anything duly done [3] or suffered thereunder, or
- (c) affect any right, privilege, obligation or liability [3] acquired, accrued or incurred under any enactment so repealed; or
- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or

[1] For power to make rules or bye laws, or to issue orders, with respect to certain matters, between the publication and the commencement of a Bengal Act, see s 23, *post*, p 12

[2] Bengal Acts used to be published three times in the Calcutta Gazette, but since the year 1900 have been published there only once. Publication is prescribed by s 40 of the Indian Councils Act, 1861 (24 & 25 Vict, c. 67), printed in the Collection of Statutes relating to India, Vol I, Ed 1899, p 851.

[3] As to the continuance of orders, etc., made under an enactment which is repealed and re-enacted, see s 25, *post*, p 13

*(General Rules of Construction — Secs 9-14)*

(e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the repealing Act had not been passed

Revival of re-  
pealed enact-  
ments

9 (1) In any Bengal Act made after the commencement of this Act it shall be necessary, for the purpose of reviving, either wholly or partially, any enactment wholly or partially repealed, expressly to state that purpose

(2) This section applies also to all Bengal Acts made between the first day of June, 1867, and the commencement of this Act

Construction  
of references  
to repealed  
enactments

10 Where this Act, or any Bengal Act made after the commencement of this Act, repeals and re-enacts with or without modification, any provision of a former enactment, then references in any other enactment or in any instrument to the provision so repealed shall, unless a different intention appears, be construed as references to the provision so re-enacted.

Commence-  
ment and  
termination  
of time

11. In any Bengal Act made after the commencement of this Act, it shall be sufficient, for the purpose of excluding the first in a series of days or any other period of time, to use the word "from," and, for the purpose of including the last in a series of days or any other period of time, to use the word "to"

Computation  
of time

12 Where, by any Bengal Act made after the commencement of this Act, any act or proceeding is directed or allowed to be done or taken in any Court or office on a certain day or within a prescribed period, then if the Court or office is closed on that day or the last day of the prescribed period, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open

Provided that nothing in this section shall apply to any act or proceeding to which the Indian Limitation Act, 1877, [1] applies.

15 of 1877

Measurement  
of distances

13 In the measurement of any distance for the purposes of any Bengal Act made after the commencement of this Act, that distance shall, unless a different intention appears, be measured in a straight line on a horizontal plane.

Gender and  
number

14. In all Bengal Acts, unless there is anything repugnant in the subject or context,—

(1) words importing the masculine gender shall be taken to include females; and

(2) words in the singular shall include the plural, and *vice versa*.

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GENERAL CLAUSES

(Powers and Functionaries — Provisions as to Orders, Rules, etc., made under Enactments — Secs 15-21)

POWERS AND FUNCTIONARIES

15 Where, by any Bengal Act made after the commencement of this Act, any power is conferred on the Government, then that power may be exercised from time to time as occasion requires

Powers conferred on the Government to be exercisable from time to time

16 Where, by any Bengal Act, a power to appoint any person to fill any office or execute any function is conferred, then, unless it is otherwise expressly provided, any such appointment, if it is made after the commencement of this Act, may be made either by name or by virtue of office

Power to appoint to include power to appoint *ex officio*

17 [1] Where, by any Bengal Act, a power to make any appointment is conferred, then, unless a different intention appears, the authority having power to make the appointment shall also have power to suspend or dismiss any person appointed by it in exercise of that power

Power to appoint to include power to suspend or dismiss

18 In any Bengal Act made after the commencement of this Act it shall be sufficient, for the purpose of indicating the application of a law to every person or number of persons for the time being executing the functions of an office, to mention the official title of the officer at present executing the functions, or that of the officer by whom the functions are commonly executed

Substitution of functionaries

19 In any Bengal Act made after the commencement of this Act it shall be sufficient, for the purpose of indicating the relation of a law to the successors of any functionaries or of corporations having perpetual succession, to express its relation to the functionaries or corporations

Successors

20. In any Bengal Act made after the commencement of this Act it shall be sufficient, for the purpose of expressing that a law relative to the chief or superior of an office shall apply to the deputies or subordinates lawfully performing the duties of that office in the place of their superior, to prescribe the duty of the superior

Official chiefs and subordinates

PROVISIONS AS TO ORDERS, RULES, ETC., MADE UNDER ENACTMENTS

21 Where, by any Bengal Act, a power to issue any order, scheme, rule, bye-law, notification or form is conferred, then expressions used in the order, scheme, rule, bye law, notification or form, if it is made after the commencement of this Act, shall, unless there is anything repugnant in the subject or context, have the same respective meanings as in the Act conferring the power

Construction of orders, etc., issued under Bengal Acts

[1] As to section 17, see the Notes on Clauses appended to the Statement of Objects and Reasons, in Calcutta Gazette, 1898, Pt. IV, p 571

(*Provisions as to Orders, Rules, etc., made under Enactments*—Secs 22 24)

Power to make, to include power to add to, amend, vary or rescind, orders, etc.

Making of rules or bye laws and issuing of orders between publication and commencement of Bengal Act

Provisions applicable to making of rules or bye laws after previous publication

**22** Where, by any Bengal Act, a power to make orders, rules, bye laws or notifications is conferred, then that power includes a power, exercisable in the like manner and subject to the like sanction and conditions (if any), to add to, amend, vary or rescind any orders, rules, bye laws or notifications so made

**23** Where, by any Bengal Act which is not to come into operation on the day of which it is first published in the Calcutta Gazette after having received the assent of the Governor General, a power is conferred to make rules or bye-laws, or to issue orders with respect to the application of the Act, or with respect to the establishment of any Court or office, or the appointment of any Judge or officer thereunder, or with respect to the person by whom, or the time when, or the place where, or the manner in which, or the fees for which, anything is to be done under the Act,

then that power may be exercised at any time after the Act has been published as aforesaid, but rules, bye-laws or orders so made or issued shall not take effect till the commencement of the Act

**24** Where, by any Bengal Act, a power to make rules or bye-laws is expressed to be given subject to the condition of the rules or bye-laws being made after previous publication, then the following provisions shall apply, namely—

- (1) the authority having power to make the rules or bye-laws shall, before making them, publish a draft of the proposed rules or bye-laws for the information of persons likely to be affected thereby,
- (2) the publication shall be made in such manner as that authority deems to be sufficient, or, if the condition with respect to previous publication so requires, in such manner as the Local Government prescribes,
- (3) there shall be published with the draft a notice specifying a date on or after which the draft will be taken into consideration,
- (4) the authority having power to make the rules or bye-laws, and, where the rules or bye laws are to be made with the sanction, approval or concurrence of another authority, that authority also, shall consider any objection or suggestion which may be received by the authority having power to make the rules or bye-laws from any person with respect to the draft before the date so specified,
- (5) the publication in the Calcutta Gazette of a rule or bye-law purporting to have been made in exercise of a power to make rules or bye-laws after previous publication shall be conclusive proof that the rule or bye-law has been duly made.



of 1899 ]

GENERAL CLAUSES

(Provisions as to Orders, Rules, etc, made under enactments — Miscellaneous — Secs 25-29)

25. Where any enactment is, after the commencement of this Act, repealed and re-enacted by a Bengal Act with or without modification, then, unless it is otherwise expressly provided, any [1] [appointment], order, scheme, rule, bye-law, notification or form [2] [made or] issued under the repealed enactment shall, so far as it is not inconsistent with the provisions re-enacted, continue in force, and be deemed to have been [2] [made or] issued under the provisions so re-enacted, unless and until it is superseded by any [1] [appointment], order, scheme, rule, bye-law, notification or form [2] [made or] issued under the provisions so re-enacted

Continuation of orders etc, issued under enactments repealed and re-enacted

MISCELLANEOUS

45 of 1860  
5 of 1898

26 Sections 63 to 70 of the Indian Penal Code, [3] and the provisions of the Code of Criminal Procedure for the time being in force in relation to the issue and the execution of warrants for the levy of fines [4] shall apply to all fines imposed under any Bengal Act or any rule or bye-law made under any Bengal Act, unless the Act, rule or bye-law contains an express provision to the contrary

Recovery of fines

27 Where an act or omission constitutes an offence [5] under two or more enactments, then the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence.

Provision as to offences punishable under two or more enactments

28 Where any Bengal Act made after the commencement of this Act authorizes or requires any document to be served by post, whether the expression "serve" or either of the expressions "give" or "send" or any other expression is used, then, unless a different intention appears, the service shall be deemed to be effected by properly addressing, pre-paying and posting by registered post, a letter containing the document, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

Meaning of service by post

29. (1) In any Bengal Act, and in any rule, bye-law, instrument or document made under, or with reference to, any Bengal Act, any enactment

Citation of enactments.

[1] The word "appointment" in s 25 was inserted by the Repealing and Amending Act 1903 (1 of 1903) *post*

[2] The words "made or" in s. 25 were inserted by the same Act

[3] Printed in General Acts, 1884-87, Ed 1898, p 240

[4] See ss 386 to 389 of Act 5 of 1898, in General Acts, 1891-98, Ed 1899, pp 499-500

[5] For definition of "offence," see s. 3 (30), *ante*, p. 7

may be cited by reference to the title or short title (if any) [1] conferred thereon or by reference to the number and year thereof, and any provision in an enactment may be cited by reference to the section or sub-section of the enactment in which the provision is contained

(2) In this Act, and in any Bengal Act made after the commencement of this Act, a description or citation of a portion of another enactment shall, unless a different intention appears, be construed as including the word, section or other part mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation

Saving for  
previous Acts,  
rules and bye-  
laws

**30.** Where any Act, rule or bye-law made after the commencement of this Act continues or amends any Acts, rules or bye-laws made before the commencement of this Act, the foregoing sections of this Act shall not by reason merely of such continuance or amendment affect the construction of such Acts, rules or bye-laws.

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[1] Short titles have been conferred on all the enactments printed in this Code.

ACTS AND REGULATIONS 15  
 SHORT TITLES AND AMENDMENTS [Act 5 of 1897]  
 (Secs 1-4)

THE AMENDING ACT, 1897  
 (ACT 5 OF 1897) [1]

[25th February, 1897.]

An Act \* \* \* [2] to amend and facilitate the citation of  
 certain\* [3] enactments

\* \* \* \* \*

\* \* \* whereas it is \* [4] expedient that certain formal amendments  
 should be made in the enactments specified in the second schedule to this Act,  
 And whereas it is also expedient to facilitate the citation of the enactments  
 specified in the third schedule to this Act,

It is hereby enacted as follows —

1. (1) This Act may be called the \* \* [5] Amending Act, 1897 and Title and  
commence  
ment  
 (2) It shall come into force at once

2. (1) [*Repeals*] *Rep by the Repealing and Amending Act, 1903 (1 of 1903)*

(2) The enactments specified in the second schedule shall be modified to Enactments  
in second  
schedule  
amended.  
 the extent and in the manner mentioned in the fourth column thereof

3 [*Savings*] *Rep by the Repealing and Amending Act, 1903 (1 of 1903)*

4 Each of the enactments described in the first three columns of the third Citation of  
certain enact  
ments  
 schedule may, without prejudice to any other mode of citation, be cited for all  
 purposes by the short title mentioned in that behalf in the fourth column thereof

[1] LEGISLATIVE PAPERS—For Statement of Objects and Reasons, see Gazette of India, 1897, Pt V p 50, and for Proceedings in Council see *ibid* Pt VI, pp 41 and 44

LOCAL EXTENT—Since this Act has no “local extent” clause it must (so far as applicable) be taken to extend to the whole of British India. So much of the Act as affects enactments in force in Angul or the Sonthal Parganas is also in force in those tracts by virtue of—

the Angul District Regulation, 1894 (1 of 1894), s 3 (1) *post*, and  
 the Sonthal Parganas Settlement Regulation, (3 of 1872), s 3 (2), as amended by Regulation 3 of 1892, s 3, *post*,  
 respectively. The Act is inapplicable to the other de-regulated tracts in Bengal, namely, the Chittagong Hill tracts since it does not repeal or amend any enactment in force there.

OTHER ACTS CONFERRING SHORT TITLES—For other Acts which confer short titles on a series of enactments, see the Indian Short Titles Act, 1897 (14 of 1897), in General Acts, 1891-98, Ed 1899, p 381, and Act 1 of 1903, *post*, p 18.

The Short Titles Act now in force in England is 57 & 60 Vict, c. 14, printed in the Collection of Statutes relating to India, Vol II, 4d. 1901, p 1255.

[2] The words “to repeal certain obsolete enactments and,” in the title, which were repealed by the Repealing and Amending Act, 1903 (1 of 1903) are omitted.

[3] The word “other” in the title, which was repealed by the same Act, is omitted.

[4] Portions of the preamble which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[5] The words “Repealing and,” in s. 1 (1), which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[The First Schedule] Rep by the Repealing and Amending Act, 1903 (1 of 1903)

## THE SECOND SCHEDULE

1	2	3	4
Year	No	Short title or subject	Amendment

*Part I — Act of the Governor General in Council*

*	*	*	*	*	[1]
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*Part II — Acts of the Lieutenant Governor of Bengal in Council*

1862	8[2]	Zamindari Dak	In section 11, for Act 17 of 1854 (for the management of the Post Office, for the Regulation of the duties of postage, and for the punishment of offences against the Post Office) read the Indian Post Office Act, 1866		
1883	1[3]	Excise (amending Bengal Act 7 of 1878)	In section 12, for the words In the second paragraph to the end of the section, read In the second paragraph of the same section, as amended by Bengal Act 4 of 1881, section 8, the following words shall be inserted after the word 'se,' that is to say, ' which are in the possession of any common carrier or warehouseman as such or "		
1884	3[4]	Bengal Municipal Act, 1884	In section 37 J (inserted by Bengal Act 4 of 1894 section 23), for the Loans Act 1879, read the Local Authorities Loan Act, 1879  In section 219 (as amended by Bengal Act 4 of 1894, section 64), for or two hundred and ten, two hundred and ten A read 210 or 210 A		
1887	2[5]	Vaccination (amending Bengal Act 5 of 1880)	To section 3 add — "The Schedule hereto annexed shall be annexed as The First Schedule to the Bengal Vaccination Act, 1880 "		
*	*	*	*	*	[1]

[1] The entries relating to Act I of 1842 and Bengal Act I of 1889 are omitted, as having been repealed by the Assam Labour and Emigration Act, 1901 (6 of 1901)

[2] Printed in Volume IV of this Code.

[3] Printed *post*, in this Volume.

[4] Printed in Volume III of this Code

[5] Printed in Volume IV of this Code

# ACTS AND REGULATIONS

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## AMENDMENTS AND SHORT TITLES

(Sch. II and III)

### THE SECOND SCHEDULE—*contd*

1	2	3	4
Year	No	Short title or subject	Amendment

*Part III—Regulations made under the Government of India Act, 1870 (33 Vict, c 3)*

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*Part IV—Regulations of the Bengal Code*

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### THE THIRD SCHEDULE

2	3	4
No	Short title or subject	Short title

*Part I—Local Acts of the Governor General in Council in force in Assam*

*	*	*	*	[3]
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*Part II—Regulations made under the Government of India Act, 1870 (33 Vict, c 3)*

*	*	*	*	[4]
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*Part III—Regulations of the Bengal Code, in force in Assam*

*	*	*	[5]
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- [1] The entries under Part III of Schedule II are omitted, as they relate only to Assam  
 [2] The entries under Part IV of Schedule II are omitted, as they are printed in the General Acts, 1891-98, Ed. 1899, p. 295.  
 [3] The entries under Part I of Schedule III are omitted, because such of them as affect Bengal are printed in the General Acts, 1891-98, Ed 1899, pp. 295, 296.  
 [4] The entry under Part II of Schedule III is omitted, as it affects Assam only.  
 [5] The entries under Part III of Schedule III are omitted as being printed in the General Acts, 1891-98, Ed. 1899, pp. 297 to 300.

# THE REPEALING AND AMENDING ACT, 1903

(ACT 1 OF 1903)[1]

[6th March, 1903]

An Act to facilitate the citation of certain enactments, to amend certain enactments and to repeal certain other enactments

WHEREAS it is expedient to facilitate the citation of the enactments specified in the first schedule to this Act,

And whereas it is also expedient that certain formal amendments should be made in the enactments specified in the second schedule to this Act,

And whereas it is also expedient that certain enactments specified in the third schedule to this Act, which are spent, or have ceased to be in force otherwise than by express specific repeal, or have by lapse of time or otherwise become unnecessary, should be expressly and specifically repealed,

It is hereby enacted as follows—

Short title  
Citation of  
certain  
enactments

1 This Act may be called the Repealing and Amending Act 1903

2 Each of the enactments described in the first three columns of the first schedule may, without prejudice to any other mode of citation, be cited for all purposes by the Short title mentioned in that behalf in the fourth column thereof

Amendment  
of certain  
enactments  
Repeal of

3 The enactments specified in the second schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof

certain  
enactments

4 The enactments specified in the third schedule are hereby repealed to the extent mentioned in the fourth column thereof

Savings

5. The repeal by this Act of any enactment shall not affect any Act or Regulation in which such enactment has been applied, incorporated or referred to;

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation,

[1] LEGISLATIVE PAPERS—For Statement of Objects and Reasons, see Gazette of India, 1903, Pt. V, p 73, and for Proceedings in Council, see *ibid* 1903 Pt VI, p 7

LOCAL EXTENT—Since this Act has no "local extent" clause it must (so far as applicable) be taken to extend to the whole of British India. It is in force in all the de-regulationised tracts in Bengal: see—

as to the Angul District, Vol. V, Part VI, B (a),

as to the Chittagong Hill tracts, *ibid*, Part VI, B (b), and

as to the Southai Parganas, *ibid*, Part VI, B (c)

of 1903 ]

SHORT TITLES AND AMENDMENTS

(See 5)

liability, claim or demand, or any indemnity already granted or the proof of any past act or thing,

• nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognized or derived by, in or from any enactment hereby repealed ,

nor shall the repeal by this Act of any enactment provide or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force

## ACTS AND REGULATIONS

## SHORT TITLES

[Act 1

## THE FIRST SCHEDULE

## SHORT TITLES

(See section 2)

1	2	3	4
Year	No	Title or subject	Short title

*Part I—Regulations of the Bengal Code*

1793	19	A Regulation for re-enacting, with modifications, the rules passed by the Governor General in Council on the 1st December, 1790, for trying the validity of the titles of persons holding or claiming a right to hold, lands exempted from the payment of revenue to Government, under grants not being of the description of those termed bádsháhi or royal, and for determining the amount of the annual assessment to be imposed on lands so held which may be adjudged or become liable to the payment of public revenue	The Bengal Revenue free Lands (Non-Badsháhi Grants) Regulation, 1793
"	37	A Regulation for re-enacting, with modifications the rules passed on the 23rd April, 1788, and subsequent dates, for trying the validity of the titles of persons holding or claiming a right to hold Altamgha, jágú and other lands exempt from the payment of public revenue, under grants termed bádsháhi or royal, and for determining when certain grants of that description shall be considered to have expired; and for fixing the amount of the public revenue to be assessed upon the lands the grants for which may expire or be adjudged invalid	The Bengal Revenue free Lands (Bádsháhi Grants) Regulation, 1793



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SHORT TITLES

THE FIRST SCHEDULE—*contd*

1	2	3	4
Year	No	Title or subject	Short title

*Part I — Regulations of the Bengal Code—contd*

1794	3	A Regulation for prescribing the process by which Tahsil dars are to demand payment of arrears, and for enabling the Collectors to recover from native officers employed under them public money or papers which they may embezzle or retain	The Bengal Native Revenue officers Regulation, 1794
1795	1	A Regulation for fixing in perpetuity the revenue assessed on the lands in the Province of Benares, for the more general restoration of the ancient zamindars	The Benares Permanent Settlement Regulation, 1795
"	15	A Regulation for referring certain cases to the decision of the Raja of Benares	The Benares Family Domains Regulation, 1795
"	27	A Regulation declaratory of certain reservations made by Government, and of rights preserved to the proprietors of landed estates, under the Permanent Settlement of the land-revenue made in the Province of Benares, for allowing of the transfer or division of entire estates or portions of estates, and prescribing rules for apportioning the fixed jama on the several shares of estates which may be divided, or portions of estates which may be transferred	The Benares Permanent Settlement (Supplemental) Regulation, 1795
"	44	A Regulation for removing certain restrictions to the operation of the Hindu and Muhammadan Laws with regard to the inheritance of landed property subject to the payment of revenue to Government in the Province of Benares	The Benares Inheritance Regulation, 1795.

THE FIRST SCHEDULE—*contd*

1	2	3	4
Year	No	Title or subject	Short title
<i>Part I—Regulations of the Bengal Code—contd</i>			
17 8	1	A Regulation to prevent fraud and injustice in conditional sales of land under deeds of bai bil wafa or other deeds of the same nature	The Bengal Land (Conditional Sales) Regulation, 1798
1800	8	A Regulation for registers of estates paying revenue, and lands held exempt from the payment of revenue	The Bengal Revenue free Lands Regulation, 1800
1801	1	A Regulation to explain and amend the rules for the division of joint estates and allotment of the fixed assessment thereupon	The Bengal Land revenue Assessment Regulation, 1801
1803	33	A Regulation for preventing the embezzlement of public money and the withholding of public papers by the Native officers of Government in the Provinces ceded by the Nawab Wazir to the Hon'ble the English East India Company	The United Provinces Native Revenue officers Regulation, 1803
1805	12	A Regulation for the settlement and collection of the public revenue in the Zila of Cuttack, including the Parganas of Pataspur, Kamardachoi and Bograi, at present included in the Zila of Midnapur	The Cuttack Land-revenue Regulation, 1805
	13	A Regulation for the maintenance of the peace and for the support and administration of the Police in the Zila of Cuttack, and for amending certain provisions contained in Regulation 4, 1804.	The Cuttack Police Regulation, 1805

of 1903 ]

SHORT TITLES

THE FIRST SCHEDULE—*contd*

	2	3	4
Year	No	Title or subject	Short title

*Part I—Regulations of the Bengal Code—contd*

1806	17	A Regulation for extending to the Province of Benares the rates of interest on future loans, and provisions relative thereto, contained in Regulation 15, 1793, also for a general extension of the period fixed by Regulations 1, 1798, and 31, 1803, for the redemption of mortgages and conditional sales of land, under deeds of bai bil wafa, kat-kabala or other similar designation	The Bengal Land (Redemption and Foreclosure) Regulation, 1806
1810	19	A Regulation for the due appropriation of the rents and produce of lands granted for the support of mosques, Hindu temples, colleges and other purposes, for the maintenance and repair of bridges, sarais, kattras and other public buildings, and for the custody and disposal of nazul property or escheats	The Bengal Charitable Endowments, Public Buildings and Escheat Regulation, 1810
1812	5	A Regulation for amending some of the rules at present in force for the collection of the land revenue	The Bengal Land revenue Sales Regulation, 1812
"	18	A Regulation for explaining section 2, Regulation 5, 1812, and rescinding sections 3 and 4, Regulation 44, 1793, and sections 3 and 4, Regulation 50, 1795, and enacting other rules in lieu thereof	The Bengal Leases and Land revenue Regulation, 1812
1814	29	A Regulation for the settlement of certain mahals in the district of Birbhum, usually denominated the Ghatwali mahals.	The Bengal Ghatwali Lands Regulation, 1814.

## ACTS AND REGULATIONS

## SHORT TITLES

[Act 1

THE FIRST SCHEDULE—*contd*

1	2	3	4
Year	No	Title or subject	Short title

*Part I — Regulations of the Bengal Code—contd*

1816	5	A Regulation for establishing the office of Kanungo in the district of Cuttack the pargana of Patáspur, and the several parganas dependent on it	The Bengal Kanungos Regulation, 1816
	9	A Regulation for the appointment of a Commissioner of Revenue within that portion of the districts of the 24 Parganas Nadia, Jessore and Backergunge commonly denominated the Sundar bans	The Sundarbans Regulation, 1816
1817	12	A Regulation for securing the better administration of the office of Patwari in the Ceded and Conquered Provinces, the Provinces of Behar and Benares, the district of Cuttack, the pargana of Patáspur and its dependencies	The Bengal Patwaris Regulation, 1817.
"	20	A Regulation for reducing into one regulation, with amendments and modifications, the several rules which have been passed for the guidance of daroohas and other subordinate officers of police	The Bengal Police Regulation, 1817
1819	1	A Regulation for re-establishing Kánungos and reforming the office of Patwari throughout the Province of Bengal, and for explaining and modifying certain parts of Regulation 12, 1817.	The Bengal Kánungos and Patwaris Regulation, 1819

of 1903 ]

SHORT TITLES

THE FIRST SCHEDULE—*contd*

1	2	3	4
Year	No	Title or subject	Short title
<i>Part I—Regulations of the Bengal Code—contd</i>			
1819	2	A Regulation for modifying the provisions contained in the existing Regulations regarding the resumption of the revenue of lands held free of assessment under illegal or invalid tenures and for defining the right of Government to the revenue of lands not included within the limits of estates for which a settlement has been made	The Bengal Land revenue Assessment (Resumed Lands) Regulation, 1819
1821	4	A Regulation for explaining the duties of an Assistant Collector of Revenue, and for defining the duties and powers vested in Assistant Collectors or other officers appointed to the charge of the revenues of parganas or other local divisions, or employed in the performance of any portion of the functions ordinarily belonging to the Collectors of land revenue	The Bengal Land revenue (Assistant Collectors) Regulation, 1821
1822	3	A Regulation for modifying the constitution and altering the jurisdiction of the several Boards vested with the superintendence of the land revenue in the territories belonging to the Presidency of Fort William	The Bengal Board of Revenue Regulation, 1822
"	7	A Regulation for declaring the principles according to which the settlement of the land revenue in the Ceded and Conquered Provinces, including Cuttack, Pataspur and its dependencies, is to be hereafter made, and the powers and duties belonging to Collectors or other officers employed in making, revis-	The Bengal Land revenue Settlement Regulation, 1822

THE FIRST SCHEDULE—*contd*

1	2	3	4
Year	No	Title or subject	Short title

*Part I—Regulations of the Bengal Code—contd*

1822	7— <i>contd</i>	ing or superintending settlements, for defining, settling and recording the rights and obligations of various classes and persons possessing an interest in the land, or in the rent or produce thereof, and for vesting the Revenue authorities with judicial cognizance in certain cases of suits and claims relating to land, the rent and produce of land	
	11	A Regulation for declaring Government not to be liable for any errors or irregularities in the proceedings of the Courts of Justice, and for making further provision for the conduct of the Revenue officers in certain cases	The Bengal Government Indemnity Regulation, 1822
1823	6	A Regulation for authorizing the institution of summary suits to enforce the execution of certain written engagements for the cultivation and delivery of the indigo plant, and for declaring certain principles in regard to the same	The Bengal Indigo Contracts Regulation, 1823
1825	9	A Regulation for extending the operation of Regulation 7, 1822, for authorizing the Revenue authorities to let in firm estates under temporary leases, on the default of the malguzars, or to hold the same khas for a term of years, for modifying and adding to the rules contained in Regulation 2, 1819; and for making certain other amendments in the existing Regulations	The Bengal Land Revenue Settlement Regulation, 1825

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SHORT TITLES

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year	No	Title or subject	Short title

*Part I—Regulations of the Bengal Code—contd*

1825	13	A Regulation to maintain the settlement made for certain lands held exempt from the payment of revenue by Kánungos in the Province of Bihar, and to provide for the future settlement of such lands, as well as of the lands composing other resumed lákhnaj tenures with the present occupants, when so directed by Government	The Bengal Land revenue Settlement (Resumed Kanungos' and Revenue free Lands) Regulation, 1825
„	14	A Regulation to declare the extent of the authority possessed by the Revenue authorities subordinate to the Governor General in Council, in the confirmation of lákhnaj tenures, to define the principles to be followed in determining on the force and validity of grants made by persons exercising authority in different quarters previously to the acquisition of the country by the British Government, and to provide for the due application of the general laws and regulations respecting lands held free of assessment to the territory ceded by Govind Rao to the British Government, and annexed to the Zila of Bundelkhand, under the provisions of Regulation 2, 1818	The Bengal Revenue-free Lands Regulation, 1825
1828	3	A Regulation for the appointment of Special Commissioners for the more speedy hearing and determination of appeals from the decisions of the Revenue authorities in regard to lands or rents occupied or	The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1828

THE FIRST SCHEDULE—*contd*

1	2	3	4
Year	No	Title or subject	Short title
<i>Part I—Regulations of the Bengal Code—contd</i>			
1828	3— <i>contd</i>	collected by individuals, without payment of the revenue demandable by Government under the general law of the country, and for otherwise more effectually securing the realization of the public dues	
"	4	A Regulation to declare and extend the powers to be exercised by Collectors when making or revising settlements under the provisions of Regulation 1, 1822	The Bengal Land revenue Settlement Regulation, 1828
"	7	A Regulation for amending the provisions of Regulation 15, 1795, and for defining the authority of the Raja of Benares in the Mahals therein referred to	The Benares Family Domains Regulation, 1828
1829	1	A Regulation for constituting Commissioners of Revenue and Circuit, for establishing a Sadr Board of Revenue, for modifying the constitution of the Provincial Courts, for transferring to the said Commissioners the functions now exercised by the Superintendents of Police and those of the mufussal special Commissioners acting under the provisions of Regulation 1 1821, and otherwise for providing for the better administration of Civil and Criminal Justice	The Bengal Revenue Commissioners Regulation, 1829
1830	5	A Regulation relating to the cultivation and delivery of Indigo-plant	The Bengal Indigo Contracts Regulation, 1830.



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SHORT TITLES

THE FIRST SCHEDULE—*contd*

1	2	3	4
Year	No	Title or subject	Short title

*Part I—Regulations of the Bengal Code—concl'd*

1833	9	A Regulation to modify certain portions of Regulation 7 of 1822 and Regulation 4 of 1828, to provide for the more speedy and satisfactory decision of judicial questions cognizable by officers of revenue employed in making settlements under the above Regulations, for enforcing the production of the village accounts, for the more extensive employment of Native agency in the Revenue Department, and to declare the intent of section 5, Regulation 7 of 1822, touching claims to mālikāna	The Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1833
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*Part II—Acts of the Governor General in Council*

1836	10	Indigo Contracts	The Bengal Indigo Contracts Act, 1836
"	21	Districts	The Bengal Districts Act, 1836.
1841	12	An Act for amending the Bengal Code in regard to sales of land for arrears of revenue	The Bengal Land-revenue Sales Act, 1841
1847	9	An Act regarding the assessment of lands gained from the sea or from rivers by alluvion or deteliction within the Provinces of Bengal, Bihar and Orissa	The Bengal Alluvion and Diluvion Act, 1847
1848	20	An Act for better enforcing the attendance of proprietors and farmers of land before Collectors of land-revenue in the Lower Provinces of the Bengal Presidency.	The Bengal Landholders' Attendance Act, 1848
1850	23	An Act for securing the Land-revenue of Calcutta.	The Calcutta Land-revenue Act, 1850
"	44	An Act for consolidating the Board of Customs, Salt and Opium and the Sadr Board of Revenue in the Lower Provinces of Bengal.	The Bengal Board of Revenue Act, 1850.

THE FIRST SCHEDULE—*contd*

1	2	3	4
Year	No	Title or subject	Short title

*Part II—Acts of the Governor General in Council—contd*

1855	32	An Act relating to Embankments	The Bengal Embankment Act, 1855
,	37	An Act to remove from the operation of the General Laws and Regulations certain districts inhabited by Sonthals and others, and to place the same under the superintendence of an officer to be specially appointed for that purpose	The Sonthal Paiganas Act, 1855
1856	13	An Act relating to the administration of the public revenues in the Town of Calcutta	The Calcutta Land revenue Act, 1856
	20	An Act to make better provision for the appointment and maintenance of Police Chaukidars in Cities, Towns, Stations, Suburbs and Bazaars in the Presidency of Fort William in Bengal	The Bengal Chaukidari Act, 1856
"	22	An Act for establishing a toll on boats and timber passing through the Karatoya river in the district of Bogra	The Karatoya Tolls Act, 1856
1857	10	An Act to amend Act 37 of 1855	The Sonthal Paiganas Act, 1857
"	13	An Act to consolidate and amend the law relating to the cultivation of the poppy and the manufacture of opium in the Presidency of Fort William in Bengal	The Opium Act, 1857
"	21	An Act to make better provision for the order and good government of the station of Howrah	The Howrah Offence. Act, 1857

of 1903]

SHORT TITLES

THE FIRST SCHEDULE—*contd*

1	2	3	4
Year	No	Title or subject	Short title
<i>Part II—Acts of the Governor General in Council—contd</i>			
1858	31	An Act to make further provision for the settlement of land gained by alluvion in the Presidency of Fort William in Bengal	The Bengal Alluvial Land Settlement Act, 1858
1859	5	An Act to empower the holders of ghât-wali lands in the district of Burdham to grant leases extending beyond the period of their own possession	The Bengal Ghât-wali Lands Act, 1859
"	10	An Act to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal	The Bengal Rent Act, 1859,
"	11	An Act to improve the law relating to sales of land for arrears of revenue in the Lower Provinces under the Bengal Presidency	The Bengal Land-revenue Sales Act, 1859
"	12	An Act to make better provision for the trial of Pilots at the Presidency of Fort William in Bengal for breach of duty	The Calcutta Pilots Act, 1859
1867	19	An Act to make further provision for the administration of justice in the district of Darjeeling.	The Darjeeling (High Court's Jurisdiction) Act, 1867.
"	23	An Act for the suppression of murderous outrages in certain districts of the Punjab	The Punjab Murderous Outrages Act, 1867
1871	22	An Act to authorize the extension of the Chaukidari Act to places where there is no Jamadar or Police.	The Bengal Chaukidari (Amendment) Act, 1871.
1876	7	An Act to extend the Criminal Tribes Act, 1871, to the Lower Provinces of Bengal, and to amend the same Act	The Criminal Tribes (Amendment) Act, 1876.

## ACTS AND REGULATIONS

## SHORT TITLES

[Act 1

THE FIRST SCHEDULE—*contd*

1	2	3	4
Year	No	Title or subject	Short title

*Part II—Acts of the Governor General in Council—concld*

1877	9	An Act to revive and amend Act No 23 of 1867	The Punjab Murderous Outrages (Amendment) Act, 1877
1878	12	An Act for the further amendment of the Punjab Laws Act, 1872	The Punjab Laws (Amendment) Act, 1878
1881	7	An Act to amend Bengal Act No 9 of 1880 (the Cess Act, 1880)	The Bengal Cess (Amendment No 1) Act, 1881
1883	6	An Act to give power to arrest persons whose evidence is needed under Act 12 of 1859	The Calcutta Pilots (Amendment) Act, 1883
1884	5	An Act to amend the Chota Nagpur Encumbered Estates Act, 1876	The Chota Nagpur Encumbered Estates (Amendment) Act, 1884
1886	8	An Act to amend sections 12 and 13 of the Bengal Tenancy Act, 1885	The Bengal Tenancy (Amendment) Act, 1886
1895	19	An Act to amend the Punjab Courts Act, 1884	The Punjab Courts (Amendment) Act, 1895
1896	17	An Act to amend the Punjab Land revenue Act, 1887	The Punjab Land revenue (Amendment) Act, 1896
"	18	An Act to amend the Punjab Municipal Act, 1891	The Punjab Municipal (Amendment) Act, 1896

*Part III—Bengal Acts*

1862	3	An Act to amend Act 11 of 1859 (to improve the law relating to sales of land for Arrears of Revenue in the Lower Provinces under the Bengal Presidency)	The Bengal Land Revenue Sales (Amendment) Act, 1862
"	6	An Act to amend Act 10 of 1859 (to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal)	The Bengal Rent Act, 1862

# ACTS AND REGULATIONS.

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of 1903.]

## SHORT TITLES

### THE FIRST SCHEDULE—*contd*

1	2	3	4
Year	No	Title or subject	Short title

### *Part III - Bengal Acts—contd*

1862	7	An Act to repeal section 30 of Regulation 2, 1819 (for modifying the provisions contained in the existing Regulations regarding the Resumption of the revenue of lands held free of assessment under illegal or invalid tenures, and for defining the right of Government to the revenue of lands not included within the limits of estates for which a settlement has been made)	The Bengal Land-revenue Resumption Act, 1862
„	8	An Act to improve the system of Zamindari Daks in the Provinces subject to the Government of Bengal	The Bengal Zamindari Dak Act, 1862
1863	2	An Act to abate and prevent nuisances arising from the smoke of furnaces in the Town and Suburbs of Calcutta	The Calcutta and Howrah Smoke Nuisances Act, 1863
1864	4	An Act to amend Act 21 of 1836	The Bengal Districts Act, 1864
1865	4	An Act for the prohibition of the practice of inoculation in the Town and Suburbs of Calcutta and in towns to which Act 3 of 1864, passed by the Lieutenant Governor of Bengal in Council, has been or shall hereafter be extended.	The Bengal Prevention of Inoculation Act, 1865.
„	7	An Act to make provision for the better regulation and supervision of Public Slaughter-houses in the Suburbs of Calcutta, and for the adoption of proper conservancy arrangements connected therewith.	The Bengal Municipal (Slaughter-houses and Meat-markets) Act, 1865

## ACTS AND REGULATIONS.

## SHORT TITLES

[ Act 1

THE FIRST SCHEDULE—*contd*

1	2	3	4
Year	No	Title or subject	Short title

*Part III—Bengal Acts—contd*

1865	8	An Act to amend the law for the sale of such under tenures as by the title deeds or established usage of the country are transferable by sale or otherwise for the recovery of arrears of rent due in respect thereof	The Bengal Rent Recovery (Under tenures) Act, 1865
1866	2	An Act to provide for the better regulation of the Police within the suburbs of the town of Calcutta	The Calcutta Suburban Police Act, 1866
"	3	An Act to provide for the attendance and examination of witnesses before the Council of the Lieutenant-Governor of Bengal for making Laws and Regulation.	The Bengal Legislative Council (Witnesses) Act, 1866
"	7	An Act to make better provision for the acquisition of land for embankments, and other matters relating thereto	The Bengal Embankment Act, 1866
1867	2	An Act to provide for the punishment of public gambling and the keeping of common gaming houses in the territories subject to the Lieutenant Governor of Bengal	The Bengal Public Gambling Act, 1867
"	3	An Act to amend the law relating to ships lying in ports in the Provinces under the control of the Lieutenant-Governor of Bengal	The Bengal Ports Act, 1867
"	4	An Act to explain and amend Act 6 of 1862, passed by the Lieutenant Governor of Bengal in Council, and to give validity to certain judgments.	The Bengal Rent (Appeals) Act, 1867

of 1903 ]

SHORT TITLES

THE FIRST SCHEDULE—*contd*

1	2	3	4
Year	No	Title or subject	Short title

*Part III — Bengal Acts—contd*

1868	3	An Act to amend the law respecting appeals in cases under Regulation 7 of 1822	The Bengal Land revenue Settlement Act, 1868
"	4	An Act to amend the provisions of Act 9 of 1847 (an Act regarding the assessment of lands gained from the sea or from rivers by alluvion or dereliction within the Provinces of Bengal, Bihar and Orissa)	The Bengal Alluvion (Amendment) Act, 1868
"	7	An Act to make further provision for the recovery of arrears of land revenue and public demands recoverable as arrears of land revenue	The Bengal Land revenue Sales Act, 1868
1869	1	An Act for the Prevention of Cruelty to Animals	The Bengal Cruelty to Animals Act, 1869
"	3	An Act to enable Police-officers to arrest without warrant persons guilty of cruelty to animals	The Bengal Cruelty to Animals (Arrest) Act, 1869.
"	7	An Act to amend the constitution of the Police force in Bengal	The Bengal Police Act, 1869
1871	1	An Act to amend the Village Chankidani Act, 1870	The Bengal Village Chankidani Act, 1871
"	2	An Act to amend the procedure for the recovery of arrears of land revenue in respect of tenures not being estates	The Bengal Land-revenue Sales (Amendment) Act, 1871.
1873	1	An Act to amend the Salt Act, 1864	The Bengal Salt Act, 1873.
"	4	An Act for registering Births and Deaths.	The Bengal Births and Deaths Registration Act, 1873.
1876	1	An Act to provide for the voluntary Registration of Muhammadan Marriages and Divorces.	The Bengal Muhammadan Marriages and Divorces Registration Act, 1876.

## ACTS AND REGULATIONS

## SHORT TITLES

[ Act 1

THE FIRST SCHEDULE—*contd*

1	2	3	4
Year	No	Title or subject	Short title

*Part III—Bengal Acts—contd*

1876	2	An Act to amend Act 11 of 1849, Act 21 of 1856 and Act 4 (B C) of 1866	The Calcutta Police (Amendment) Act 1876
1878	5	An Act to amend Bengal Act 7 of 1876	The Bengal Land Registration (Amendment) Act, 1878
1879	2	An Act to amend and extend the Puri Lodging house Act, 1871	The Puri Lodging house (Extension) Act, 1879
"	3	An Act to provide for the periodical inspection of Steam-boilers and Prime-movers attached thereto in the Town and Suburbs of Calcutta and in Howrah	The Bengal Steam boilers and Prime-movers Act, 1879
"	8	An Act to define and limit the powers of Settlement-officers	The Bengal Rent Settlement Act, 1879.
1880	3	An Act to amend the Howrah Bridge Act, 1871	The Howrah Bridge Act, 1880
1881	2	An Act to amend the Cess Act, 1880	The Bengal Cess (Amendment No 2) Act, 1881
"	3	An Act to amend the Court of Wards Act, 1879	The Bengal Court of Wards (Amendment) Act, 1881
1883	1	An Act to amend the Bengal Excise Act, 1878	The Bengal Excise (Amendment) Act, 1883
"	5	An Act for the Registration and Control of Porters and Dandewallas in the Darjeeling and Kurseong Municipalities.	The Darjeeling and Kurseong Municipal (Porters) Act, 1883
1884	1	An Act further to amend Bengal Act 4 of 1871.	The Puri Lodging-house (Extension) Act, 1884
"	2	An Act to amend the Calcutta Tramways Act, 1880	The Calcutta Tramways (Amendment) Act, 1884
1886	1	An Act to further amend the Village Chaukidari Act, 1870.	The Bengal Village Chaukidari (Amendment) Act, 1886.



# ACTS AND REGULATIONS.

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## SHORT TITLES

### THE FIRST SCHEDULE—*contd*

1	2	3	4
Year	No	Title or subject	Short title

### *Part III—Bengal Acts—contd.*

1886	2	An Act to amend Act 2 (B C) of 1866 and the Calcutta Police Act, 1866	The Calcutta and Suburban Police (Amendment) Act, 1886
"	3	An Act to amend Act 3 (B C) of 1884	The Bengal Municipal (Amendment) Act, 1886
1887	2	An Act to amend Bengal Act 5 of 1880	The Bengal Vaccination (Amendment) Act, 1887
1889	4	An Act to provide for the appointment of a Muhammadan Burial Board in Calcutta, and to make better provision for the interment of persons other than Christians or Muhammadans	The Calcutta Burial Boards Act, 1889
1890	1	An Act to consolidate the Calcutta and the Suburban Police Superannuation Funds	The Calcutta and Suburban Police (Superannuation Fund) Act, 1890
"	2	An Act to amend the Bengal Vaccination Act, 1880	The Bengal Vaccination (Amendment) Act, 1890
1892	1	An Act to further amend the Village Chaukidari Act, 1870	The Bengal Village Chaukidari (Amendment) Act, 1892
1894	2	An Act to amend the Calcutta Port Act, 1890	The Calcutta Port (Amendment) Act, 1894
"	4	An Act to amend the Bengal Municipal Act, 1884	The Bengal Municipal (Amendment) Act, 1894
1895	2	An Act to further amend the Suburban Police Act, 1866, and the Calcutta Police Act, 1866	The Calcutta and Suburban Police (Amendment) Act, 1895
"	4	An Act to further amend the Calcutta Port Act, 1890	The Calcutta Port (Amendment No. 1) Act, 1895.
"	6	An Act to further amend the Calcutta Port Act, 1890.	The Calcutta Port (Amendment No. 2) Act, 1895
1896	2	An Act to further amend the Bengal Municipal Act, 1884	The Bengal Municipal (Amendment) Act, 1896.

## ACTS AND REGULATIONS.

## SHORT TITLES

[ Act 1

THE FIRST SCHEDULE—*concl'd*

1	2	3	4
Year	No	Title or subject	Short title

*Part III—Bengal Acts—concl'd*

1897	1	An Act to amend the Public Demands Recovery Act, 1895	The Bengal Public Demands Recovery (Amendment) Act, 1897
1899	2	An Act to repeal the Civil Courts Amins Act, 1856, in Bengal	The Bengal Civil Court Amins Act, 1899

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AMENDMENTS

THE SECOND SCHEDULE

AMENDMENTS

(See section 3)

1	3	4
Year	No	Subject or short title
		Amendments

*Part I.—Regulations of the Bengal Code*

1793	2	The Bengal Land revenue Regulation, 1793	<p>In section 18, <i>after</i> Collector <i>insert</i> or</p> <p>In sections 36, 38, 39, 40, 42, 43 and 45, <i>the word</i>, Governor General in Council, <i>wherever they occur, shall be read as if the words</i> Local Government <i>were substituted therefor</i></p> <p>In section 40, <i>the word</i> his <i>shall be read as if the word</i> its <i>were substituted therefor</i></p> <p>In section 45, <i>the word</i> him <i>shall be read as if the word</i> it <i>were substituted therefor</i></p>
"	8	The Bengal Decennial Settlement Regulation, 1793	<p>In section 20, <i>the words</i> Governor General in Council <i>shall be read as if the words</i> Local Government <i>were substituted therefor</i></p> <p>In section 21, <i>the word</i> Government <i>shall be read as if the words</i> the Local Government <i>were substituted therefor</i></p>
"	19	Revenue-free Lands (Non Bādshāhī Grants)	<p>In sections 2, 3, 8 and 15, <i>the words</i> Governor General in Council, <i>wherever they occur, shall be read as if the words</i> Local Government <i>were substituted therefor</i></p> <p>In section 2, clause <i>Fourth</i>, <i>the word</i> him <i>shall be read as if the word</i> it <i>were substituted therefor</i></p> <p>In section 10, <i>the words</i> Governor General in Council <i>shall be read as if the words</i> Governor General in Council or the Local Government <i>were substituted therefor</i></p> <p>In section 15, <i>the word</i> him, <i>where it last occurs, shall be read as if the word</i> it <i>were substituted therefor</i>.</p>

## THE SECOND SCHEDULE—contd

1	2	3	4
Year	No	Subject or short title	Amendments

*Part I — Regulations of the Bengal Code—contd*

1793	37	Revenue-free Lands (Bād shāhi Grants)	<p>In sections 2, 3, 5 and 10, <i>the words Governor General in Council, wherever they occur shall be read as if the words Local Government were substituted therefor</i></p> <p>In section 10, <i>the word him, where it last occurs, shall be read as if the word it were substituted therefor</i></p>
1799	5	The Bengal Wills and Intestacy Regulation, 1799	<p>In section 7, <i>the words Governor General in Council shall be read as if the words Local Government were substituted therefor, and the word his, where it last occurs, shall be read as if the word its were substituted therefor</i></p>
1805	12	Land-revenue, Cuttack	<p>In sections 18, 20, 26 28 and 30, <i>the words Governor General in Council, wherever they occur, shall be read as if the words Local Government were substituted therefor</i></p> <p>In section 18, clause <i>Third</i>, <i>the word himself shall be read as if the word itself were substituted therefor</i></p> <p>In section 18, clause <i>Fifth</i>, <i>the word him shall be read as if the word it were substituted therefor</i></p> <p>In section 22, <i>for through the Board of Revenue for the information of the Governor General in Council substitute to the Board of Revenue</i></p>
	13	Police, Cuttack	<p>In section 3, <i>the words the Governor General in Council, by an order in Council, shall be read as if the words the Local Government, by notification in the Calcutta Gazette, were substituted therefor</i></p> <p>In section 4, clause <i>Fourth</i>, <i>the words Governor General in Council shall be read as if the words Local Government were substituted therefor.</i></p>

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AMENDMENTS

THE SECOND SCHEDULE—*contd*

1	2	3	4
Year	No	Subject or short title	Amendments

*Part I — Regulations of the Bengal Code—contd*

1810	19	Charitable Endowments, Public Buildings and Escheats	<p>In section 3, for those Boards substitute the Board of Revenue</p> <p>In section 4, for Boards substitute Board</p> <p>In section 8, for those Boards respectively substitute the Board</p> <p>In section 9, the words Governor General in Council shall be read as if the words Local Government were substituted therefor</p> <p>In section 12, for superior Boards substitute Board of Revenue, and for Boards substitute Board</p> <p>In section 13, for superior Board substitute board of Revenue</p>
1812	5	Land revenue Saks	<p>In section 25, the words Governor General in Council shall be read as if the words Local Government were substituted therefor</p>
,	11	The Bengal Foreign Immigrants Regulation, 1812	<p>At the end of section 5, for the said Regulation substitute this Regulation</p>
1814	29	Ghatwālī Lands	<p>In section 5, the words Governor General in Council, wherever they occur, shall be read as if the words Local Government were substituted therefor</p>
1816	5	Kánúngos	<p>In sections 5 and 11, the words Governor General in Council, wherever they occur, shall be read as if the words Local Government were substituted therefor</p>
,	9	Sundarbans	<p>In section 2, the words Governor General in Council shall be read as if the words Local Government were substituted therefor</p> <p>In the same section, for Regulations substitute Laws.</p>

THE SECOND SCHEDULE—*contd*

1	2	3	4
Year	No	Subject or short title	Amendments

*Part I—Regulations of the Bengal Code—contd*

1817	12	Patwáris	In section 18, <i>the words Governor General in Council shall be read as if the words Local Government were substituted therefor</i>
1819	1	Kánúngos and Patwáris	In section 4, <i>the words Governor General in Council, wherever they occur, shall be read as if the words Local Government were substituted therefor</i>  In section 4, clause <i>Third</i> , <i>the word he shall be read as if the word it were substituted therefor</i>
,	2	Land revenue Assessment (Resumed Lands)	In section 13, clause <i>Third</i> , and in section 14, <i>the words Governor General in Council shall be read as if the words Local Government were substituted therefor</i>  In section 21, clause <i>Second</i> , <i>for Boards substitute Board</i>
,	8	The Bengal Patni Taluqs Regulation, 1819	In section 9, and in section 14, clause <i>Second</i> , <i>for notes of the Bank of Bengal substitute currency notes</i>
1820	1	The Bengal Patni Taluqs Regulation, 1820	In section 2, <i>for the general Regulations substitute Law</i>
1821	4	Land revenue (Assistant Collectors)	In section 7, <i>for by the Regulations substitute by law, and for the Regulations already in force substitute the law for the time being in force</i>  In section 8, <i>the words Governor General in Council, wherever they occur, shall be read as if the words Local Government were substituted therefor</i>  In section 8, clause <i>Fifth</i> , <i>for by the Regulations substitute by the laws, and for to the Regulations substitute to law</i>

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AMENDMENTS

THE SECOND SCHEDULE—*contd*

1	2	3	4
Year	No	Subject or short title	Amendments

*Part I—Regulations of the Bengal Code—contd*

1822	3	Board of Revenue	<p>In the title, <i>for the words from and altering to the end, substitute</i> of the Board of Revenue, and for controlling the distribution of powers between the members of the Board</p> <p>In section 4, clause <i>First</i>, <i>for</i> The said Boards shall each of them <i>substitute</i> The Board of Revenue for the Lower Provinces of the Presidency of Fort William in Bengal shall</p> <p>In section 5, clause <i>First</i>, <i>for</i> any of the said Boards <i>substitute</i> the said Board</p> <p>In section 5, second proviso, and clause <i>Second</i>, <i>for</i> a Board <i>substitute</i> the Board</p> <p>In section 5, clauses <i>Third</i> and <i>Sixth</i>, <i>for</i> Boards <i>substitute</i> Board</p>
"	7	Land-revenue Settlement	<p>In section 2, clause <i>Sixth</i>, <i>for</i> the words as aforesaid, <i>where they first occur, substitute</i> acknowledged as the proprietor or possessor of a permanent interest in the mahal for which he has engaged</p> <p>In section 3, the words Governor General in Council, <i>wherever they occur, shall be read as if the words</i> Local Government <i>were substituted therefor, and the words</i> by an Order in Council <i>shall be read as if the words</i> by notification in the local official Gazette <i>were substituted therefor.</i></p> <p>In section 6, section 6, clause <i>Second</i>, section 7, clause <i>First</i>, section 8, section 9, clause <i>Third</i>, section 10, clauses <i>First</i> and <i>Third</i>, and sections 16, 17 and 32, the words Governor General in Council, <i>wherever they occur, shall be read as if the words</i> Local Government <i>were substituted therefor, and in section 35, the words</i> Governor General in Council, <i>in the second place, where they occur, shall be read as if the words</i> Local Government <i>were substituted therefor.</i></p>

THE SECOND SCHEDULE—*contd*

1	2	3	4
Year	No	Subject or short title	Amendment

*Part I—Regulations of the Bengal Code—contd.*

1822	7	Land Revenue Settlement— <i>contd</i>	<p>In section 9, clause <i>Third</i>, for Board, substitute Board, and for such a Board substitute that Board</p> <p>In section 10 clause <i>Ninth</i>, section 16, proviso, and section 32, for the word Boards, wherever it occurs, substitute Board</p> <p>In section 13, for Pegulation substitute law</p> <p>In section 20, clause <i>First</i>, the words the Government by an Order in Council shall be read as if the words the Local Government by notification in the local official Gazette were substituted therefor, the word he shall be read as if the word it were substituted therefor, and the word Government shall be read as if the words the Local Government were substituted therefor</p> <p>In section 20, clause <i>Second</i>, the words Governor General in Council and the words Governor General shall be read as if the words Local Government were substituted therefor, and the words by an Order in Council shall be read as if the words by notification in the local official Gazette were substituted therefor</p> <p>In section 23, clause <i>First</i>, for other Regulation substitute other law</p> <p>In section 24, clause <i>Second</i>, for the existing Regulations substitute any other law</p> <p>In section 26, for such suits substitute suits the cognizance of which is hereby vested in Collectors</p>
1825	9	Land-revenue Settlement	<p>In section 3, section 4, section 5, clause <i>Eighth</i>, section 6 and section 8, the words Governor General in Council, wherever they occur shall be read as if the words Local Government were substituted therefor.</p>



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AMENDMENTS

THE SECOND SCHEDULE—*contd*

1	2	3	4
Year	No	Subject or short title	Amendments

*Part I—Regulations of the Bengal Code—contd*

1825	9	Land-revenue Settlement - <i>contd</i>	In section 3, <i>after Behar insert</i> or  In section 6, <i>the words</i> an Order in Council <i>shall be read as if the words</i> notification in the local official Gazette <i>were substituted therefor</i>  In section 8, <i>for the words</i> rules <i>respectively substitute</i> section
„	13	Land revenue Settlement	In sections 2 and 5, <i>the words</i> Governor General in Council, <i>wherever they occur, shall be read as if the words</i> Local Government <i>were substituted therefor</i>  In the first paragraph of section 2, <i>the word</i> he <i>shall be read as if the word</i> it <i>were substituted therefor</i>  In section 3, <i>for</i> Regulations <i>substitute</i> law
„	14	Revenue free Lands	In section 1 and section 3, clause <i>Fifth</i> <i>for</i> Regulations 8 and <i>substitute</i> Regulation  In sections 2 and 3, <i>the words</i> Governor General in Council, <i>wherever they occur, shall be read as if the words</i> Local Government <i>were substituted therefor</i>  In section 3, clause <i>Fifth</i> , <i>the word</i> his, <i>where it last occurs, shall be read as if the word</i> its <i>were substituted therefor</i>  In section 6, <i>for</i> Revenue Boards <i>substitute</i> Board of Revenue, and <i>for</i> these Boards <i>substitute</i> that Board
1827	3	The Bengal Corruption and Extortion Regulation, 1827	In section 5, <i>for</i> a Court of Circuit or the Nizamat Adalat <i>substitute</i> the Court.
„	5	The Bengal Attached Estates Management Regulation, 1827	In section 3, <i>for</i> several Regulations <i>substitute</i> Regulation.

## ACTS AND REGULATIONS

## AMENDMENTS

[ Act 1

THE SECOND SCHEDULE—*contd*

1	2	3	4
Year	No	Subject or short title	Amendments
<i>Part I—Regulations of the Bengal Code—concl'd</i>			
1828	3	Land-revenue Assessment (Resumed Lands)	In section 10, clauses <i>Second</i> and <i>Third</i> , for Boards <i>substitute</i> Board  In section 13, clause <i>First</i> the words Governor General in Council and the word he shall be read as if the words Local Government and the word it were respectively substituted therefor
"	4	Land revenue Settlement	In section 2, clause <i>Fourth</i> for aforesaid <i>substitute</i> vested with the powers of a Collector
1833	9	Land revenue (Settlement and Deputy Collectors)	In the title for Regulations <i>substitute</i> Regulation, and in section 1, for those Regulations <i>substitute</i> that Regulation  In sections 12 and 13 for Boards, <i>substi- tute</i> Board  In section 16, the words Governor General in Council shall be read as if the words Local Government were substituted therefor
<i>Part II—Acts of the Governor General in Council</i>			
1836	21	Districts . . .	The words the Governor General in Council by an Order in Council shall be read as if the words the Local Gov- ernment with the previous sanction of the Governor General in Council, by Notification in the local official Gazette were substituted therefor
1859	10	Rent . . .	In sections 136 and 151, for Boards <i>substitute</i> Board
"	11	Land revenue Sales .	In section 22, after post bills insert currency notes  In section 32, for section 25 <i>substitute</i> section 2 of the Bengal Land-revenue Sales Act 1868  In section 33, for section 25 of this Act <i>substitute</i> section 2 of the Bengal Land revenue Sales Act, 1868.
"	12	Calcutta Pilots .	In sections 2 and 18, for the words Superintendent of Marine, wherever they occur, <i>substitute</i> Port Officer.

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AMENDMENTS

THE SECOND SCHEDULE—*contd*

1	2	3	4
Year	No	Subject or short title	Amendments

*Part II—Acts of the Governor General in Council—contd*

1861	5	The Police Act, 1861	In section 34, <i>after</i> imprisonment <i>insert</i> with or without hard labour
1867	3	The Public Gambling' Act, 1867	In the title, <i>for</i> the Central Provinces and British Burma <i>substitute</i> and the Central Provinces,  In the preamble, <i>for</i> of the Chief Commissioner of the Central Provinces and of the Chief Commissioner of British Burma, <i>substitute</i> and of the Chief Commissioner of the Central Provinces  In section 1, <i>for the definitions of</i> Lieutenant Governor <i>and</i> Chief Commissioner <i>substitute the following, namely —</i>  “ Lieutenant Governor means the Lieutenant Governor of the United Provinces of Agra and Oudh or of the Punjab, as the case may be  “ Chief Commissioner ” means the Chief Commissioner of the Central Provinces or of the North West Frontier Province, as the case may be
1872	15	The Indian Christian Marriage Act, 1872	In section 82, <i>for</i> certificates of marriages, <i>and also for</i> marriage certificates, <i>substitute</i> certificates for marriage  In Schedule II, <i>after</i> declaration <i>insert</i> or oath.
1878	12	Laws, Punjab (Amending Act 4 of 1872)	In section 2, <i>for</i> 18 <i>substitute</i> 16.
1879	14	The Hackney Carriage Act, 1879	In section 3 <i>for</i> The Lieutenant Governors of the North-Western Provinces and the Punjab and the Chief Commissioners of Oudh, the Central Provinces, British Burma, <i>substitute</i> The Lieutenant-Governor of the United Provinces of Agra and Oudh, the Punjab and Burma, and the Chief Commissioner of the Central Provinces.

THE SECOND SCHEDULE—*contd*

1	2	3	4
Year	No	Subject or short title	Amendments

*Part II.—Acts of the Governor General in Council—contd*

1879	18	The Legal Practitioners' Act, 1879	In section 42 (added by the Legal Practitioners' Act, 1884, section 9), <i>before the words and figures</i> Act I of 1846 <i>insert</i> So much of Chapter VI of Bombay Regulation 2 of 1827 as has not been repealed.
1881	13	The Fort William Act, 1881	In section 1, <i>for</i> Army Discipline and Regulation Act, 1879, <i>substitute</i> Army Act In section 5, <i>for</i> Presidency Magistrates Act, 1877, <i>substitute</i> Code of Criminal Procedure, 1898, <i>and for</i> the High Courts Criminal Procedure Act, 1875, section 147, <i>substitute</i> section 526 of that Code In section 7, <i>for</i> Magistrates appointed under the Presidency Magistrates Act, 1877, <i>substitute</i> Presidency Magistrates
1889	5	The Coroners (Madras) Act, 1889	In the preamble and in section 4, sub-section (2), as amended by the Repealing and Amending Act, 1891, <i>for</i> the Code of Criminal Procedure, 1882, <i>substitute</i> the Code of Criminal Procedure, 1898
	13	The Cantonments Act, 1886	In section 6, sub section (1), <i>for</i> in the case of a cantonment for which such a committee has not been constituted, <i>substitute</i> where a cantonment committee has not been constituted, or has in pursuance of an order of the Local Government ceased to exist, or for any reason cannot be convened, then, subject to any rules made under section 26, clause (5).
1897	10	The General Clauses Act, 1897	In section 3, clauses (5), (6), (30) and (35), <i>after</i> under <i>insert</i> the Indian Councils Act, 1861, or In section 3, <i>after</i> clause 8, <i>insert</i> the following— (8a) "Burma Act" shall mean an Act made by the Lieutenant-Governor of Burma in Council under the Indian Councils Acts, 1861 and 1892

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AMENDMENTS

THE SECOND SCHEDULE—contd

1	2	3	4
Year	No	Subject or short title	Amendments

Part II—Acts of the Governor General in Council—contd

1897	10	The General Clauses Act, 1897—contd	<p>In section 3, <i>after clause (44), insert the following —</i></p> <p>(44a) "Punjab Act" shall mean an Act made by the Lieutenant Governor of the Punjab in Council under the Indian Councils Acts, 1861 and 1892</p> <p>In section 3, <i>after clause (55), insert the following —</i></p> <p>(55a) "United Provinces Act" shall mean an Act made by the Lieutenant Governor of the North Western Provinces and Oudh (or of the United Provinces of Agra and Oudh) in Council under the Indian Councils Act, 1861, or the Indian Councils Acts, 1861 and 1892</p> <p>In section 20, <i>before the word order, in each of the places in which it occurs, insert notification</i></p> <p>In section 21, <i>for make substitute issue notifications, between the words any and orders insert notifications, and for made substitute issued</i></p> <p>In section 24, <i>before the word order, in each of the places in which it occurs insert appointment, notification, and before the word issued, in each of the places in which it occurs, insert made or.</i></p>
1898	5	The Code of Criminal Procedure, 1898	<p>In section 260, sub-section (1), clause (v), <i>after 451 insert 453, 454</i></p> <p>In section 555 <i>for 558 substitute 554</i></p> <p>In the second schedule, column 5, <i>against section 195 for Bailable substitute Not bailable</i></p>

## ACTS AND REGULATIONS

## AMENDMENTS

[Act 1

THE SECOND SCHEDULE—*contd*

1	2	3	4
Year	No	Subject or short title	Amendments

*Part II—Acts of the Governor General in Council—concl'd*

1898	5	The Code of Criminal Procedure, 1898— <i>contd</i>	<p>In the second schedule, column 8, against section 506 <i>for</i> Ditto <i>substitute</i> Presidency Magistrate or Magistrate of the first or second class</p> <p>In the heading to the fifth schedule, <i>for</i> 554 <i>substitute</i> 555</p> <p>In the fifth schedule, Form IV, <i>for</i> with in days from this date <i>substitute</i> on the day of</p> <p>In the fifth schedule, Forms XIII and XIV, <i>for the passage from</i> comply <i>where it occurs for the second time</i> to released, <i>substitute</i> be lawfully ordered to be released</p>
1900	3	The Prisoners Act, 1900	<p>For section 29 <i>substitute the following</i> —</p> <p>29 (1) The Governor General in Council may, by general or special order, provide for the removal of any prisoner confined in a prison—</p> <p>(a) under sentence of death, or</p> <p>(b) under, or in lieu of, a sentence of imprisonment or transportation, or</p> <p>(c) in default of payment of a fine, or</p> <p>(d) in default of giving security for keeping the peace or for maintaining good behaviour,</p> <p>to any other prison in British India.</p> <p>(2) The Local Government and (subject to its orders and under its control) the Inspector-General of Prisons may, in like manner, provide for the removal of any prisoner confined as aforesaid in a prison in the Province to any other prison in the Province</p>

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## AMENDMENTS

THE SECOND SCHEDULE—*contd*

1	2	3	4
Year	No	Subject or short title	Amendments

*Part III.—Bengal Acts*

1862	6	Rent	In section 14, for the said Act <i>substitute</i> Act 10 of 1859 and for section 7 of Act 1 of 1846 <i>substitute</i> section 27 of the Legal Practitioners' Act, 1879
1865	7	Slaughter houses and Meat markets	In section 1, for the jurisdiction of the Municipal Commissioners of the Suburbs of the Town of Calcutta appointed under the provisions of Act 3 of 1864 passed by the Lieutenant-Governor of Bengal in Council ( <i>the District Municipal Improvement Act</i> ), <i>substitute</i> any limits to which this section has heretofore been, or may hereafter be, extended by notification under section 9
1866	4	The Calcutta Police Act, 1866	In section 25, for such officer <i>substitute</i> officer of the Police Force  In section 33, for the Articles of War for Her Majesty's Army or Her Majesty's Navy or for the native officers or soldiers in Her Majesty's Indian Army, <i>substitute</i> the Naval Discipline Act, the Army Act or the Indian Articles of War  In section 95, for the words this Act, in the second place in which they occur <i>substitute</i> sections 64 and 67 to 70 of the Indian Penal Code and sections 386, 387 and 389 of the Code of Criminal Procedure, 1898
1867	4	Rent (Appeals)	In section 5, for the said recited Acts <i>substitute</i> the Bengal Rent Act, 1859, or the Bengal Rent Act, 1862
1869	1	Cruelty to Animals	In section 9, for the said Act 2 of 1866 <i>substitute</i> Bengal Act 2 of 1866.
1876	3	The Bengal Irrigation Act, 1876	In section 95, for as a demand under section 1 of the aforesaid Bengal Act 7 of 1868, <i>substitute</i> under the procedure provided by the Public Demands Recovery Act, 1895, for the recovery of public demands

## ACTS AND REGULATIONS

## AMENDMENTS

[Act 1

THE SECOND SCHEDULE—*contd*

1	2	3	4
Year	No	Subject or short title	Amendments

*Part III—Bengal Acts—contd*

1880	9	The Cess Act, 1880	In section 29 Example B, <i>for rate substitute ratio</i>
1884	2	Amendment of the Calcutta Tramways Act, 1880	<p>In the preamble, <i>for the words and figures situate within the local limits of the town as defined in the Calcutta Municipal Consolidation Act, 1876, substitute</i> subject to the authority of the Corporation of Calcutta</p> <p>In section 3, <i>for the words and figures in Calcutta but situate beyond the local limits of the town as defined in the Calcutta Municipal Consolidation Act, 1876, substitute</i> in those portions of Calcutta, as defined in the Calcutta Municipal Act, 1899, which are not subject to the authority of the Corporation of Calcutta, <i>and for the words and figures within the local limits of the town as defined by the Calcutta Municipal Consolidation Act, 1876, substitute</i> within the area subject to their authority</p> <p>In section 4, <i>for the words and figures outside the limits of the town as defined by the Calcutta Municipal Consolidation Act, 1876, substitute</i> outside the area subject to their authority</p>
1885	3	The Bengal Local Self Government Act of 1885	<p>In section 45, <i>for such district substitute</i> any district in which this Act is in force</p> <p>In the reference to section 9 of Bengal Act 9 of 1880 in the second Schedule <i>for 111 substitute</i> 109</p>
1887	4	The Chittagong Port Commissioners Act, 1887	In section 39, clause (b), <i>for 32 substitute</i> 34
1890	2	Vaccination (amending Bengal Act 5 of 1880)	In sections 2 and 3, <i>after Suburbs insert</i> of Calcutta
"	3	The Calcutta Port Act, 1890	In section 30, <i>for the three next succeeding sections and in section 34 for any of the three last preceding sections, substitute</i> section 31, section 32 or section 33.



# ACTS AND REGULATIONS

53

of 1903 ]

## AMENDMENTS

### THE SECOND SCHEDULE—*concl'd*

1	2	3	4
Year	No	Subject or short title	Amendments

### *Part III — Bengal Acts—concl'd*

1890	3	The Calcutta Port Act, 1890 — <i>concl'd</i>	In section 94, for vessels substitute vessel
1894	4	Municipalities	In section 34, for Municipality substitute Municipalities
1899	1	The Bengal General Clauses Act, 1899	In section 3, clause (6), after under insert the Indian Councils Act, 1861, or  In section 20 before the word order, wherever it occurs, insert the word appointment, and before the word issued, wherever it occurs, insert the words made or

### *Part IV — Burma Act*

1898	1	The Burma General Clauses Act, 1898	In section 20, before the word order, in each of the places in which it occurs insert notification  In section 21, for make substitute issue notifications, between the words any and orders insert notifications, and for made substitute issued  In section 24, before the word order, in each of the places in which it occurs, insert appointment, notification, and before the word issued, in each of the places in which it occurs, insert made or
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### *Part V — Regulation made under the Government of India Act, 1870 (33 & 34 Vict., c 3)*

1874	9	The Aikan Hill District Laws Regulation, 1874	In the first column of the schedule, for 2 of 1857 substitute 11 of 1857
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## ACTS AND REGULATIONS

[Act 1 of 1903.]

## THIRD SCHEDULE

## REPEALS

*(See section 4)**[Omitted as being spent]*

ADMINISTRATION OF ESTATES, *See* SUCCESSION, IN VOLUME IV

# ALLUVION AND DILUVION.<sup>[1]</sup>

	Page
Reg 11 of 1825 . . . the Bengal Alluvion and Diluvion Regulation, 1825 .	55
Act 9 of 1847 . . . the Bengal Alluvion and Diluvion Act, 1847 .	59
Act 31 of 1858 . . . the Bengal Alluvial Land Settlement Act, 1858	61
Ben Act 4 of 1868 . . . the Bengal Alluvion (Amendment) Act, 1868 . . .	63

## THE BENGAL ALLUVION AND DILUVION REGULATION, 1825<sup>[2]</sup>

(REGULATION 11 OF 1825).

[26th May, 1825]

A Regulation for declaring the rules to be observed in determining claims to lands gained by alluvion, or by dereliction of a river or the sea.

1. IN consequence of the frequent changes which take place in the channel of the principal rivers that intersect the Provinces immediately subject to the Presidency of Fort William, and the shifting of the sands which lie in the beds of those rivers, chars or small islands are often thrown up by alluvion in the midst of the stream, or near one of the banks, and large portions of land are carried away by an encroachment of the river on one side, whilst accessions

Preamble,

[1] As to the application of the Bengal Tenancy Act, 1885 (8 of 1885) to alluvial land, see s 180 of that Act, in Vol II of this Code.

[2] SHORT TITLE.—This short title was given by the Amending Act, 1897 (5 of 1897), s 4, ante, page 15

LOCAL EXTENT.—This Regulation is expressed in the concluding clause of section 1 (post, p 56) to apply to the whole of Bengal

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (printed, General Acts, 1868 76, Ed 1898, p 485), to be in force throughout Bengal, except as regards the Scheduled Districts.

It has also been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), section 3, to be in force in the following Scheduled Districts, namely—

West Jalpaiguri in the Jalpaiguri District—see Vol. V, Part V B (a) ; and the Tarai in the Darjeeling District—see *ib.*

It is in force in the Sonthal Parganas—see Vol. V, Part VIB (c), but its application in the other de regulationized tracts in Bengal is barred as follows—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s. 3 (2) (post), and  
in the Chittagong Hill-tracts, by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s 4 (2) (post).

INSPECTION.—As to the inspection of work connected with newly formed islands, see the Inspection Manual, 1902, page 20.

of land are at the same time, or in subsequent years, gained by dereliction of the water on the opposite side, similar instances of alluvion, encroachment and dereliction also sometimes occur on the sea-coast which borders the southern and south-eastern limits of Bengal

The lands gained from the rivers or sea by the means above-mentioned are a frequent source of contention and affray, and although the law and custom of the country have established rules applicable to such cases, these rules not being generally known, the Courts of Justice have sometimes found it difficult to determine the rights of litigant parties claiming chars or other lands gained in the manner above described

The Court of Sadar Diwani Adalat, with a view to ascertain the legal provisions of the Muhammadan and Hindu laws on this subject, called for reports from their law officers of each persuasion, and on consideration of the reports furnished by the law officers in consequence, as well as of the decisions which have been passed by the Court of Sadar Diwani Adalat in cases brought before them in appeal which involved the rights of claimants to lands gained by alluvion, or by dereliction of rivers or the sea, the Governor General in Council has deemed it proper to enact the following rules for the general information of individuals as well as for the guidance of the Courts of Judicature, to be in force, as soon as promulgated, throughout the whole of the Provinces subject to the Presidency of Fort William —

Claims and disputes as to alluvial lands to be decided by usage when clearly recognized and established

2 Whenever any clear and definite usage of shikast parwaist respecting the disjunction and junction of land by the encroachment or recess of a river may have been immemorially established, for determining the rights of the proprietors of two or more contiguous estates divided by a river (such as that the main channel of the river dividing the estates shall be the constant boundary between them, whatever changes may take place in the course of the river, by encroachment on one side and accession on the other), the usage so established shall govern the decision of all claims and disputes relative to alluvial land between the parties whose estates may be liable to such usage.

Where no usage established, claims how decided

3 Where there may be no local usage of the nature referred to in the preceding section, the general rules declared in the following section shall be applied to the determination of all claims and disputes relative to lands gained by alluvion or by dereliction either of a river or the sea

Lands gained by gradual accession from recess of river or sea

4 [1] *First*.—When land may be gained by gradual accession, whether from the recess of a river or of the sea, it shall be considered an increment to

[1] For saving of rights of under tenants in alluvial land under this clause, see the Bengal Alluvial Land (Settlement) Act, 1858 (31 of 1858), s. 2, *post*, p. 62.

of 1825.]

## DILUVION REGULATION, 1825

(Sec 4)

the tenure of the person to whose land or estate it is thus annexed, whether such land or estate be held immediately from Government by a zimindar or other superior landholder, or as a subordinate tenure, by any description of under-tenant whatever

Provided that the increment of land thus obtained shall not entitle the person in possession of the estate or tenure to which the land may be annexed to a right of property or permanent interest therein beyond that possessed by him in the estate or tenure to which the land may be annexed, and shall not in any case be understood to exempt the holder of it from the payment to Government of any assessment for the public revenue to which it may be liable under the provisions of Regulation 2, 1819, [1] or of any other Regulation in force

Extent of  
interest in  
increment of  
person in  
possession

[2] Nor, if annexed to a subordinate tenure held under a superior landholder, shall the under-tenant, whether a khud kásbt raiyat, holding a maurúsi istimá'í tenure at a fixed rate of rent per bigha, or any other description of under-tenant liable by his engagements, or by established usage, to an increase of rent for the land annexed to his tenure by alluvion, be considered exempt from the payment of any increase of rent to which he may be justly liable

*Second.*—The above rule shall not be considered applicable to cases in which a river, by a sudden change of its course, may break through and intersect an estate, without any gradual encroachment, or may by the violence of stream separate a considerable piece of land from one estate and join it to another estate without destroying the identity and preventing the recognition of the land so removed

When river  
by sudden  
change of  
course inter  
sects estate

In such cases the land, on being clearly recognized, shall remain the property of its original owner

*Third* —When a chai or island [3] may be thrown up in a large navigable river (the bed of which is not the property of an individual), or in the sea,

Chas thrown  
up in navi  
gable river

[1] Printed in Vol. II of this Code

[2] This paragraph of section 4, clause *First*, is repealed by section 2 (1) of the Bengal Tenancy Act, 1885 (8 of 1885, in Vol. II of this Code), in the whole of Bengal "except the town of Calcutta, the Division of Orissa and the Scheduled Districts" As to the extension of this repeal to the Division of Orissa, see s 2 (2) of the Act of 1885 The extension of the repeal to Scheduled Districts depends upon the terms of notifications extending the Act of 1885 to such districts Under the terms of the notification (printed in Part C of Vol V of this Code) extending the Act of 1885 to the Jalpaiguri District, the repeal has taken effect in that district.

[3] The revenue authorities are to take immediate possession of such islands, and to assess and settle the land—see the Bengal Alluvion (Amendment) Act, 1868 (Ben Act 4 of 1868), s 3, *post*, p 63

For further provisions as to such islands, see also *ib*, ss, 4 to 8, *post*, p 64

Lands gained by gradual accession to such islands are to be at the disposal of the Government—see *ib*, s, 2, *post*, p, 63.

THE BENGAL ALLUVION AND DILUVION  
REGULATION, 1825

[Reg 11 of 1825.]

(Sec 5)

and the channel of the river or sea between such island and the shore may not be fordable, it shall, according to established usage, be at the disposal of Government

Property  
therein when  
channel ford-  
able

But if the channel between such island and the shore be fordable at any season of the year, it shall be considered an accession to the land tenure or tenures of the person or persons whose estate or estates may be most contiguous to it, subject to the several provisions specified in the first clause of this section with respect to increment of land by gradual accession

Chars etc,  
thrown up in  
small shallow  
rivers

*Fourth* —In small and shallow rivers, the beds of which, with the jalkar right of fishery, may have been heretofore recognized as the property of individuals, any sand bank or char that may be thrown up shall, as hitherto, belong to the proprietor of the bed of the river, subject to the provisions stated in the first clause of the present section

Disputes rela-  
tive to lands  
gained by  
alluvion or by  
dereliction  
not provided  
for by Regu-  
lation

*Fifth* —In all other cases, namely, in all cases of claims and disputes respecting land gained by alluvion or by dereliction of a river or the sea, which are not specifically provided for by the rules contained in this Regulation, the Courts of Justice, in deciding upon such claims and disputes, shall be guided by the best evidence they may be able to obtain of established local usage, if there be any applicable to the case, or, if not, by general principles of equity and justice.

Encroach-  
ments on beds  
of navigable  
rivers and  
other ob-  
structions

5 Nothing in this Regulation shall be construed to justify any encroachments by individuals on the beds or channels of navigable rivers, or to prevent Zila \* \* [1] Magistrates or any other officers of Government who may be duly empowered for that purpose from removing obstacles which appear to interfere with the safe and customary navigation of such rivers, or which shall in any respects obstruct the passage of boats by tracking on the banks of such rivers, or otherwise

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[1] The words "and City", which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted

[Act 9 of 1847] THE BENGAL ALLUVION AND DILUVION ACT, 1847

(Secs 1, 2)

THE BENGAL ALLUVION AND DILUVION ACT, 1847<sup>[1]</sup>

(ACT 9 OF 1847)

[8th May, 1847]

An Act regarding the assessment of lands gained from the sea or from rivers by alluvion or dereliction within the Provinces of Bengal, Bihár and Orissa

1. It is hereby enacted that such parts of the Regulations of the Bengal Code as establish tribunals and prescribe rules of procedure for investigations regarding the liability to assessment of lands gained from the sea or from rivers by alluvion or dereliction, or regarding the right of Government to the ownership thereof, shall, from the date of the passing of this Act, cease to have effect within the Provinces of Bengal, Bihár and Orissa, \* \* \* \* ,<sup>[2]</sup> and that no measures shall hereafter be taken for the assessment of such lands, or for the assertion of the right of Government to the ownership thereof except under the provisions of this Act

Repeal of enactments.

2 \* \* [3] The expression "Province of Orissa" in this Act shall be taken to mean only so much of the Province of Orissa as is subject to the Government of Bengal

"Province of Orissa" defined

[1] SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), *ante*, page 18

LOCAL EXTENT.—This Act is expressed in its title to apply to the whole of Bengal

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s 6 (printed, General Acts, 1868 76, Ed 1898, p. 465), to be in force throughout Bengal, except as regards the Scheduled Districts

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s 3, to be in force in the following Scheduled Districts, namely —

West Jalpaiguri in the Jalpaiguri District—*see* Vol V, Part V B (a), and the Hazáribágh, Ranchi, Palamau and Manbhum Districts, and Pargana Dhalbhum and the Kolhan, in the Singhbhum District, in the Chota Nagpur Division—*see* *ib*, Part V B (b)

It is in force in the Sonthal Parganas—*see* Vol V, Part VI B (c), but its application in the other de-regulationized tracts in Bengal is barred as follows —

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s 3 (2), *post*, and  
in the Chittagong Hill tracts, by the Chittagong Hill tracts Regulation, 1900 (1 of 1900) s. 4 (2), *post*

RULES.—For special rules for settlement of alluvial formations, *see* the Survey and Settlement Manual, 1900, App., pp. lxxx to lxxxvii

INTERVAL BETWEEN SURVEYS.—In any district in which a survey has been completed and approved by the Government, a new survey of lands on the banks of rivers or on the sea shore may not be ordered to be made for the purposes described in Act 9 of 1847 until ten years have expired from the completion and approval of the previous survey—*see* the Bengal Survey Act, 1875, s 3, in Vol. IV.

[2] The words "and that all such investigations pending before the Collectors and Deputy Collectors in the said Provinces at the said date shall forthwith be discontinued," in s 1, which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted

[3] Formal words in s. 2, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

Power to  
direct new  
surveys of  
riparian  
lands

3 \* \* [1] Within the said Provinces it shall be lawful for the Government of Bengal, in all districts or parts of districts of which a revenue-survey may have been or may hereafter be completed and approved by Government, to direct from time to time, whenever ten years from the approval of any such survey shall have expired, a new survey of lands on the banks of rivers and on the shores of the sea, in order to ascertain the changes that may have taken place since the date of the last previous survey, and to cause new maps to be made according to such new survey

Date of ap  
proval of sui  
veys

4 [2] \* \* \* \* \* The approval of the revenue-surveys of districts or parts of districts which may be hereafter surveyed shall be deemed to have taken place on such day as may be specified as the day of such approval in the Calcutta \* \* [3] Gazette

Deduction  
from jama of  
estates from  
which lands  
have been  
washed away

5 \* \* [4] Whenever on inspection of any such new map it shall appear to the local revenue authorities that land has been washed away from or lost to any estate paying revenue directly to Government, they shall without loss of time make a deduction from the sadar jama of the said estate equal to so much of the whole sadar jama of the estate as bears to the whole the same proportion as the mufassal jama of the land lost bears to the mufassal jama of the whole estate, but, if the mufassal jama of the whole estate or of the land lost cannot be ascertained to the satisfaction of the local revenue-authorities, then the said local revenue-authorities shall make a deduction from the sadar jama of the estate equal to so much of the whole sadar jama of the estate as bears to the whole the same proportion as the land lost bears to the whole estate And this deduction, with the reasons thereof, shall be forthwith reported by the local revenue authorities for the information and orders of the \* [5] Board of Revenue, [6] whose orders thereupon shall be final

Assessment of  
increments to

6 \* \* [7] Whenever on inspection of any such new map it shall appear to the local revenue authorities that land has been added to any estate paying revenue directly to Government, they shall without delay assess the same with

[1] Formal words in s 3, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted

[2] Matter repealed by the same Act, is omitted

[3] The word "Government", in s 4, which was repealed by the Repealing and Amending Act, 1903 (1 of 1903), is omitted

[4] Formal words in s 5, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted.

[5] The word "Sadar" in s 5, which was repealed by the Repealing and Amending Act, 1903 (1 of 1903), is omitted.

[6] As to the exercise of functions of the Board of Revenue by other authorities, see foot note on p 75, *post*

[7] Formal words in s 6, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted



[Act 9 of 1847] THE BENGAL ALLUVION AND DILUVION ACT, 1847

(Sec 9)

[Act 31 of 1858] THE BENGAL ALLUVIAL LAND SETTLEMENT ACT, 1858

(Preamble)

a revenue payable to Government according to the rules in force for assessing revenue pay  
alluvial increments, and shall report their proceedings forthwith to the \*[1] ing estates  
Board of Revenue,[2] whose orders thereupon shall be final

7 [Local Revenue-authorities to take possession of a new island, and to assess and settle the land] Rep by the Bengal Alluvion Act, 1868 (Ben Act 4 of 1868)

8 [Exception of certain suits from operation of Act] Rep by the Repealing Act, 1870 (14 of 1870)

9 \* \* \* [3] No suit or action in any Court of Justice shall lie against the Government or any of its officers on account of anything done in good faith in the exercise of the powers conferred by this Act. Indemnity-clause

## THE BENGAL ALLUVIAL LAND SETTLEMENT ACT, 1858 [4]

(ACT 31 OF 1858)

[24th August, 1858]

An Act to make further provision for the settlement of land gained by alluvion in the Presidency of Fort William in Bengal

WHEREAS, for the removal of doubts respecting the course proper to be Preamble

[1] The word "Said" in s 6, which was repealed by the Repealing and Amending Act, 1903 (1 of 1903), is omitted

[2] As to the exercise of functions of the Board of Revenue by other authorities, see footnote on p 75, post

[3] Formal words in s 9, which were repealed by the Repealing Act 1874 (16 of 1874), are omitted. The words "except as regards the proprietary right to islands", in s 9, which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are also omitted

[4] SHORT TITLE.—This short title was given by the Repealing and Amending Act 1903 (1 of 1903), ante, page 18

LOCAL EXTENT.—This Act is expressed in its title to apply to the whole of Bengal

It has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s 6 (printed, General Acts, 1868 76, Ed. 1898, p 435), to be in force throughout Bengal, except as regards the Scheduled Districts

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s 3, to be in force in the following Scheduled Districts, namely—

the Hazaribagh, Ranchi, Palamau and Manbhum Districts, and Pargana Dhalbhum and the Kolhan in the Singhbhum District, in the Chota Nagpur Division—see Vol V, Part V B (b)

It is in force in the Sonthal Parganas—see Vol. V, Part VI B (c), but its application in the other de-regionalized tracts in Bengal is barred as follows—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s 3 (2), post, and

in the Chittagong Hill tracts, by the Chittagong Hill tracts Regulation, 1900 (1 of 1900), s. 4 (2), post.

followed in the settlement of land added by alluvial accession to estates paying revenue to Government, it is expedient to lay down certain rules to be observed in the settlement of such land, It is enacted as follows —

Addition of  
revenue as  
sessed upon  
alluvial land  
to jama of  
original  
estate

1 When land added by alluvial accession to an estate paying revenue to Government becomes liable to assessment, if it be so agreed on between the revenue authorities and the proprietor or proprietors, the revenue assessed upon the alluvial land may be added to the jama of the original estate, and in such case a new engagement shall be executed for the payment of the aggregate amount, and that amount shall be substituted in the Collector's rent-roll for the former jama of the original estate

When  
separate  
settlement  
to be made

If the proprietor or proprietors object to such an arrangement, or if the revenue-authorities are of opinion that a settlement of the alluvial land cannot properly be made for the same term as the existing settlement of the original estate, the alluvial land shall be assessed and settled as a separate estate with a separate jama, and shall thenceforward be regarded and treated as in all respects separate from and independent of the original estate, whether the separate settlement be made with the proprietor or proprietors or the land be let in farm in consequence of the refusal of the proprietor or proprietors to accept the terms of settlement

The separate settlement may be permanent, if the settlement of the original estate is permanent

Rights of  
under tenants  
in alluvial  
land

2 Nothing contained in the preceding section shall affect the rights of any under-tenant in any alluvial land under the provisions of clause 1, section 4, Regulation 11, 1825 [1]

It shall be the duty of all officers making settlements of such land, whether the land be settled separately or incorporated with the original estate, to ascertain and record all such rights according to the rules prescribed in Regulation 7, 1822 [2], and to determine whether any and what additional rent shall be payable in respect of the alluvial land by the person or persons entitled to any under-tenure in the original estate

The provisions of the said Regulation [2], so far as the same may be applicable, are hereby declared to extend to all settlements made under this Act.

3. [Separate settlements heretofore made, saving of rights.] Rep by the Repealing and Amending Act, 1903 (1 of 1903).

[1] The Bengal Alluvion and Diluvion Regulation, 1825 It is printed *ante*, p 55.

[2] The Bengal Land-revenue Settlement Regulation, 1822 It is printed in Vol II of this Code.

[Ben. Act 4 of 1868] THE BENGAL ALLUVION (AMENDMENT) ACT,  
1868

(Secs 2, 3)

# THE BENGAL ALLUVION (AMENDMENT) ACT, 1868<sup>[1]</sup>

(BENGAL ACT 4 OF 1868)

[8th July, 1868]

An Act to amend the provisions of Act 9 of 1847 <sup>[2]</sup> (an Act regarding the assessment of lands gained from the sea or from rivers by alluvion or dereliction within the Provinces of Bengal, Bihár and Orissa)

WHEREAS it is expedient to amend the provisions of Act 9 of 1847, <sup>[2]</sup> Preamble It is enacted and declared as follows —

1 [*Repeal of s 7 of Act 9 of 1847*] *Rep by the Repealing Act, 1873*  
(12 of 1873)

2 It is hereby declared that when any islands shall, under the provisions of clause 3, section 4, of Regulation 11 of 1825<sup>[3]</sup> of the Bengal Code, be at the disposal of Government, all lands gained by gradual accession to such island, whether from a recess of the river or of the sea, shall be considered an increment to such island, and shall be equally at the disposal of Government

Accessions to island considered increment thereto

3 Whenever it shall appear to the local revenue-authorities that an island has been thrown up in a large and navigable river liable to be taken possession of by Government under clause 3, <sup>[3]</sup> section 4, of Regulation 11 of 1825 of the Bengal Code, the local revenue authorities shall take immediate possession

Newly thrown up islands to be assessed

[1] SHORT TITLE — This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), *ante* p 18

LEGISLATIVE PAPERS — For Statement of Objects and Reasons, *see* Calcutta Gazette, 1868, p 508, and for Proceedings in Council, *see ibid*, Supplement, 1868, pp 253, 337, 362, 372 and 388

LOCAL EXTENT — This Act contains no "local extent" clause. In the absence of such a clause, and looking to the fact that the Act amends Act 9 of 1847, which was expressed to apply to the whole of Bengal, it may be assumed that the Act was intended to apply (so far as applicable) to the whole of Bengal

The Act has been declared by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the following Scheduled Districts, namely —

the Hazaribagh, Ranchi, Palamau and Manbhum Districts and Pargana Dhalbhum and the Kolhan in the Singhbhum District, in the Chota Nagpur Division—*see* Vol V, Part VB (b)

It is in force in the Sonthal Parganas—*see* Vol V, Part VI B(c), but its application in the other de regulationized tracts in Bengal is barred as follows—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s 3 (2), *post*,

and

in the Chittagong Hill-tracts, by the Chittagong Hill tracts Regulation, 1900 (1 of 1900), s 4 (2), *post*.

[2] The Bengal Alluvion and Diluvion Act 1847. It is printed *ante*, p 59. The section of Act 9 of 1847 which was specifically "amended" by Ben. Act 4 of 1868 was s 7, which is replaced by s 3 of the present Act.

[3] The Bengal Alluvion and Diluvion Regulation 1825. It is printed *ante*, p 55.

THE BENGAL ALLUVION (AMENDMENT) ACT, [Ben Act 4 of 1868 ]  
1868

(Secs 4 8)

of the same for Government, and shall assess and settle the land according to the rules in force in that behalf, reporting their proceedings forthwith for the approval of the Board of Revenue [1], whose order thereupon, in regard to the assessment, shall be final

Provided, however, that any party aggrieved by the act of the revenue-authorities in taking possession of any island as aforesaid shall be at liberty to contest the same by a regular suit in the Civil Court

Subsequent  
junction to  
mainland not  
to affect  
Government  
right

4 Any island of which possession may have been taken by the local revenue-authorities on behalf of the Government under section 3 of this Act shall not be deemed to have become an accession to the property of any person by reason of such channel becoming fordable after possession of such island shall have been so taken

Power to  
apply for  
ways across  
islands

5 Whenever an island, of which possession shall have been taken by Government under section 3 of this Act, shall become attached to the mainland, any person having an estate or interest in any part of the riparian mainland to which such island may become attached while it is in the possession of the Government may apply to the Collector [2] to take measures for the construction of ways, paths and roads on the island the costs thereof to be equally divided between the applicant and the Government

Applicant for  
ways to depo-  
sit money, and  
ways to be  
made

6 Thereupon the Collector [2] may require the applicant to make such deposit of money as to the Collector shall seem sufficient, and, on such deposit being made, the Collector [2] shall proceed to lay out and construct such ways, paths and roads in and through the island as he may deem necessary for securing access to the river or sea from the land to which the island may have become attached

Costs of ways  
how borne

7 In every case the applicant shall be liable to pay and make good to the Government one half of the costs of laying out and constructing such ways, paths and roads as aforesaid, and any moneys due from the applicant under the provisions of this section may be deducted and retained by the Collector [2] out of the deposit so made by the applicant as aforesaid

Ways to be  
public.

8. Every way, road and path, which shall be laid out or appointed under the provisions aforesaid, shall be deemed a public highway.

[1] As to the exercise of functions of the Board of Revenue by other authorities, see foot note on p. 77, *post*.

[2] As to the exercise of the functions of a Collector by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s 35, in Vol II of this Code

# ANIMALS

## CONTAGIOUS DISEASES OF—

Ben Act 8 of 1880	the Bengal Contagious Diseases (Animals) Act, 1880 . . . page 65
<b>CRUELTY TO—</b>	
Ben Act 1 of 1869 .	the Bengal Cruelty to Animals Act, 1869 . . . „ 69
Ben Act 3 of 1869	the Bengal Cruelty to Animals (Arrest) Act, 1869 . . . „ 72
Ben Act 3 of 1900 .	the Bengal Cruelty to Animals Act, 1900 . . . „ 73

## THE BENGAL CONTAGIOUS DISEASES (ANIMALS) ACT 1880

(BENGAL ACT 8 OF 1880)[1]

[13th October, 1880]

### An Act to provide against the spreading of certain Contagious and Infectious Diseases among Horses

WHEREAS it is expedient to provide against the spreading of certain contagious and infectious diseases among horses, It is hereby enacted as follows — Preamble

1 This Act may be called the Bengal Contagious Diseases (Animals) Act 1880 Short title

[1] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, *see* Calcutta Gazette, 1879, Pt IV, p 108, and for Proceedings in Council, *see ibid*, Supplement, 1879, pp 1447, 1505, Supplement, 1880, p 226

LOCAL EXTENT.—This Act applies to the town and suburbs of Calcutta, *see* s 1, and may be extended to any town or place in Bengal, *see* s 14, *post*, p 68

For a list of places to which the Act has been extended under s 14, *see* the Bengal Local Statutory Rules and Orders, 1903, Vol. I, p 109.

The application of the Act is barred —

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s. 3 (2), printed *post*,

in the Chittagong Hill tracts, by the Chittagong Hill tracts Regulation, 1900 (1 of 1900), s 4 (2), printed *post*, and

in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872) s 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s 3, printed *post*

GENERAL ACTS.—The Glanders and Farcy Act, 1899 (13 of 1899), extends to the whole of British India, but does not come into force in Bengal until notified under its 3rd section For lists of places in Bengal to which the Act has been applied by notification under that section, *see* the Bengal Local Statutory Rules and Orders, 1903, Vol. I, p 74, and the General Acts, 1899 1903, Ed 1904, p 104, foot note 3

For power to deal in Cantonments with animals suffering from infectious or contagious disease, *see* the Cantonments Act, 1889 (13 of 1889), s. 26 (22), in General Acts, 1885-90, Ed. 1898, p 346

For power of Railway Administration to refuse to carry any animal suffering from such a disease, *see* the Indian Railways Act, 1890 (13 of 1890), s. 54 (3), *ibid*, p 434.

ANIMALS  
CONTAGIOUS DISEASES  
(Secs 2-5)

[Ben Act 8]

Extent

It applies to the Town of Calcutta, as defined by Bengal Act 4 of 1866 [1], and to the Suburbs of the Town of Calcutta as defined by the notification of the 10th September, 1877, and published in the Calcutta Gazette for the 26th September, 1877

[Commencement] *Rep by the Repealing and Amending Act, 1903 (1 of 1903)*

Interpreta  
tion clause  
"Disease"

2 In this Act,—

"disease" means glanders, farcy or any dangerous epidemic disease among horses which the Lieutenant-Governor may from time to time, by an order published in the Calcutta Gazette, declare to be a disease for the purposes of this Act

"Horse."

"horse" includes ponies, asses, mules and jennets

"Inspector of  
Police"

"inspector of police" includes any police officer not under the rank of an inspector of police

"Section"

"section" means a section of this Act

"Veterinary  
Surgeon"

"veterinary surgeon" means a member of the Royal College of Veterinary Surgeons, or any veterinary practitioner appointed to be a veterinary surgeon for the purposes of this Act by the Lieutenant-Governor

Owner of  
diseased horses  
to give  
information to  
the police

3 Every person having in his possession or under his charge any horse which he knows or has reason to believe to be affected with disease shall as far as practicable keep such horse separate from horses not so affected, and shall send intimation of the fact to the officer in charge of the nearest police-station within twenty-four hours from his knowledge of the same, and in default of so doing he shall be liable to a fine not exceeding five hundred rupees

Penalty

Police-officer  
to proceed on  
information

4. On receiving this intimation the officer in charge of the police-station shall have the horse examined by a veterinary surgeon, and, if the surgeon certifies that the animal is affected with disease, shall cause it to be forwarded to the hospital established under section 5, or, if no such hospital has been established, to be slaughtered forthwith

An inspector of police may exercise the powers of an officer in charge of a station under this section.

Government  
may make  
rules.

5. The Lieutenant-Governor may from time to time make, and, when made, revoke, add to and alter rules [2] in relation to the following matters or any of them:—

- (1) for establishing and maintaining a hospital for the examination and detention of horses affected with disease,

[1] See s. 3 of Bengal Act, 4 of 1866 (the Calcutta Police Act, 1866), printed in Vol. IV of this Code

[2] For rules, see the Bengal Local Statutory Rules and Orders, 1903, Vol. II, p. 1.

of 1880 ]

## CONTAGIOUS DISEASES

(Secs 6-9)

- (2) for prescribing and realizing from the owner of any horse detained in such hospital a reasonable sum to meet the expenses connected with the conveyance, detention and disposal of the animal,
- (3) for determining a proper place for the burial of horses affected with disease,
- (4) for generally carrying out the provisions of this Act

Notice of the making of any such rules shall be published in the Calcutta Gazette

6. Whenever such hospital is established in Calcutta, the expenses of the same shall, so far as may be necessary, be a first charge on the surplus of the fees levied on the registration of hackney-carriages under Bengal Act 5 of 1866 [1] Expenses of hospital how to be defrayed

7. An inspector of police may at any time enter any place where he has reasonable grounds for supposing that any horse affected with disease is or has lately been, and may cause such horse, if found, to be dealt with in the manner laid down in section 4, and, whether such horse be found in the place or not, may, upon the certificate of a veterinary surgeon, cause all articles that have been in contact with or used about any such horse to be burnt or otherwise destroyed Power of entry of inspector of police,

The inspector shall, if required, state in writing the grounds on which he has so entered

If any person refuses admission to such inspector, he shall be liable to a fine not exceeding five hundred rupees

8. An inspector of police entering any premises in accordance with the last preceding section may take with him one or more police-officers and any veterinary surgeon who may take with him other officers and a veterinary surgeon.

9. Every owner or person in charge of any place as aforesaid shall be bound, if required by an inspector of police acting upon the certificate of a veterinary surgeon, to thoroughly cleanse and disinfect the same, and, on his failing to do so within twenty-four hours from the requisition, the inspector of police shall cause the said place to be thoroughly cleansed and disinfected, and the expenses of so doing, if not paid by the owner or person in charge within seven days from the incurring of the same, may, with all costs, be Owners of infected premises bound to cleanse them.  
Expenses how recoverable.

[1] Ben Act 5 of 1866 has been repealed and re-enacted by the Calcutta Hackney-carriage Act, 1891 (Ben Act 2 of 1891, printed in Vol. II of this Code), but s. 2 (3) of the Act of 1891 declares that the reference in the text shall be deemed to be made to that Act.

ANIMALS  
CONTAGIOUS DISEASES [Ben Act 8 of 1880]  
(Secs 10-14)

recovered [as a fine [1] adjudged by any Magistrate exercising jurisdiction in the place

Burial of  
diseased  
horses

10. Every person having in his possession or under his charge any horse that has died of glanders, or has been slaughtered in consequence of being affected with glanders, shall cause the same to be buried as soon as possible in its skin, which shall be slashed before burial, and to be covered with a sufficient quantity of quicklime or other disinfectant, or to be disposed of in such other manner as the Lieutenant-Governor may direct, and in default of so doing shall be liable to a fine not exceeding two hundred rupees

Penalty for  
allowing  
diseased  
horses in the  
streets

11 Whoever voluntarily or negligently causes or permits any horse affected with disease to be worked, driven or led on any public road or street except for the purpose of being taken to a veterinary surgeon or hospital for examination, or to be slaughtered in accordance with this Act, or voluntarily or negligently causes or permits any such horse to be turned loose or to stray or escape into any place whence such horse can escape into any public road or street or any private premises, shall be punished with imprisonment for a term which may extend to three months, or with a fine which may extend to five hundred rupees, or with both

Penalty for  
vexatious  
entries,  
searches and  
seizures

12 An inspector of police, who vexatiously or frivolously enters or searches any place, seizes or detains any horse on the pretence that it is affected with disease,

shall be punished with imprisonment for a term which may extend to three months, or with a fine which may extend to five hundred rupees, or with both

No prosecution under this section shall be instituted after the expiry of two months from the date on which the offence has been committed.

Reward to  
police officers

13. Whenever an offender is sentenced to pay a fine under this Act, the convicting Magistrate may direct that any portion, not exceeding one-half, shall, if realized, be paid to the police-officer on whose information the offender has been convicted

Power to  
extend Act.

14. The Lieutenant-Governor may, by an order published in the Calcutta Gazette, extend this Act to any town or place.

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[1] As to the recovery of fines, see the Bengal General Clauses Act, 1899 (Ben Act 1 of 1899), s 26, *ante*, p. 13



[Ben Act 1 of 1869]

CRUELTY

(Secs 1, 2)

THE BENGAL CRUELTY TO ANIMALS ACT, 1869<sup>[1]</sup>

(BENGAL ACT 1 OF 1869)

[10th March, 1869]

## An Act for the Prevention of Cruelty to Animals.

WHEREAS it is expedient to make provision for the prevention of cruelty to animals, It is enacted as follows —

[2] 1 In this Act, the word “animal,” means any domestic, or captured animal Definition of  
“animal”

2 Every person who shall cruelly and wantonly beat, ill-treat, abuse, torture, overdrive or overload, or cause to be beaten, ill-treated, abused, Penalty on  
cruelty to ani-  
mals

[1] SHORT TITLE —This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), printed *ante*, p 18

Ben Acts 1 and 3 of 1869 and 3 of 1900 may be cited together as the Bengal Cruelty to Animals Acts 1869 to 1900—see Ben Act 3 of 1900 s 3 (2) *post* p 73

LEGISLATIVE PAPERS —For Statement of Objects and Reasons see Calcutta Gazette, 1868, p 837 and for Proceedings in Council, see *ibid*, Supplement, 1868, pp 278 and 877, Supplement, 1869, pp 15 and 29

LOCAL EXTENT —This Act applies to the town and suburbs of Calcutta—(see s 9 *post*, p 71), and may be extended to any city, town, station, bazar, cantonment, village, district or portion of a district in Bengal—(see s 10 *post*, p 71)

For a list of places to which the Act has been extended under s 10, see the Bengal Local Statutory Rules and Orders 1903, Vol I, pp 94, 95

The application of the Act is barred—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s 3 (2), printed *post*,

in the Chittagong Hill tracts, by the Chittagong Hill tracts Regulation, 1900 (1 of 1900), s 4 (2), printed *post*, and

in the Southal Parganas, by the Southal Parganas Settlement Regulation, 1872 (3 of 1872), s 3 (2), as amended by the Southal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s 3, printed *post*

REPRINT —This Act has been reprinted (by the Legislative Department of the Government of Bengal) as modified by subsequent legislation up to the 1st December, 1903

ARREST —For power of police to arrest, without a warrant, persons committing offences against this Act, see Ben Act 3 of 1869, *post*, p 72

For procedure as to the crediting of fines to the Society for the Prevention of Cruelty to Animals, see the High Courts' Rules, 1903, Criminal, Vol I, p 209

GENERAL ACTS —Power is given by s 1 (2) of the Prevention of Cruelty to Animals Act, 1890 (11 of 1890, printed in the General Acts, 1885-90, Ed 1898, p 465), to extend that Act, or parts of it, to Bengal For a list of places to which the Act has been so extended, see the Bengal Local Statutory Rules and Orders, 1903, Vol I, pp 61, 62, and for a list of orders under s 6 of the Act, see *ibid*, p 63 The Act has been republished with the reprint (issued by the Legislative Department of the Government of Bengal) of Ben Act 1 of 1869 as modified by subsequent legislation up to the 1st December, 1903.

Other enactments giving powers of punishment for cruelty to animals are the Indian Penal Code (Act 45 of 1860), ss 428, 429 (printed in General Acts, 1834-67, Ed 1898, p 354), the Police Act, 1861 (5 of 1861), s 84 (2) (printed in *ibid*, p 392), and the Stage Carriages Act, 1861 (16 of 1861), s 9 (printed in *ibid*, p 398)

For power to make rules for prevention of cruelty to animals in Cantonments, see the Cantonments Act, 1889 (18 of 1889), s 26 (24) (printed in General Acts, 1885-90, Ed 1898, p 347).

[2] This section was substituted for the original s. 1 by Ben. Act 3 of 1900, s. 1, *post*, p. 73. The original section ran thus —

“1 The word ‘animal’ shall be taken to mean any domestic or tamed quadruped, or any domestic or tamed bird.”

tortured, overdriven or overladen, any animal, shall be liable to a fine which may extend to one hundred rupees

Penalty on  
baiting ani-  
mals or incit-  
ing them to  
fight

3 Every person who shall incite any quadrupeds or birds, whether domestic or wild, to fight, or shall bait any animal, or shall aid or shall abet anyone in so doing, shall be liable to a fine which may extend to fifty rupees

Penalty on  
permitting  
diseased ani-  
mals to go at  
large or die in  
public places

4. Every person who shall wilfully and knowingly permit any animal, of which he may be owner, to go at large in any public street, road or thoroughfare, while such animal is affected with contagious or infectious disease, or shall wilfully permit any diseased or disabled animal, of which he may be owner, to die in any public street, road or thoroughfare, shall be liable to a fine which may extend to one hundred rupees

Penalty for  
employing  
animal unfit  
for labour

[1] 5 If any person employs in any work or labour any animal which, by reason of any disease, infirmity, wound, sore or other cause, is unfit to be so employed, or permits any such unfit animal in his possession or under his control to be so employed, he shall be punished with fine which may extend to one hundred rupees

Penalty for  
practising  
*phuka*

[1] 5A. If any person performs upon any cow the operation called *phuká* he shall be punished with fine which may extend to one hundred rupees, or with imprisonment which may extend to three months, or with both

Infirmeries

[1] 5B. (1) The Local Government may, by general or special order, appoint places to be infirmaries[2] for the treatment and care of animals in respect of which offences against this Act have been committed

(2) The Magistrate before whom a prosecution for such an offence has been instituted may direct that the animal in respect of which the offence is proved to have been committed shall be sent for treatment and care to an infirmary and be there detained until it is, in his opinion, again fit for the work or labour on which it has been ordinarily employed.

(3) The cost of the treatment, feeding and watering of the animal in the infirmary shall be payable by the owner of the animal according to such scale of rates as the District Magistrate or, in the case of an infirmary in a Presidency-town, the Commissioner of Police may from time to time prescribe

[1] The sections 5 to 5C here printed were substituted for the originals 5 by Ben. Act 3 of 1900, s. 2

The original section 5 ran thus —

“Every person who shall employ or cause to be employed in any work or labour any animal which, in consequence of any disease, infirmity, wounds or sores, is unfit to be so employed, shall be liable to a fine which may extend to fifty rupees”

[2] The hospital attached to the Bengal Veterinary College, Belgachia, has been so appointed—see the Bengal Local Statutory Rules and Orders, 1903, Vol. I, p. 94.

of 1869 ]

## CRUELTY

(Secs 5C-10)

(4) If the owner refuses or neglects to pay such cost and to remove the animal within such time as the Magistrate referred to in sub-section (2) may prescribe, such Magistrate may direct that the animal be sold and that the proceeds of the sale be applied to the payment of such cost

(5) The surplus, if any, of the proceeds of the sale shall, on application made by the owner within two months after the date of the sale, be paid to him, but the owner shall not be liable to make any payment in excess of the proceeds of the sale

[1] 5C A prosecution for an offence against this Act shall not be instituted after the expiration of three months from the date of the commission of the offence Limitation of prosecutions

6. All complaints of offences against the provisions of this Act, alleged to have been committed in the town of Calcutta, shall be heard and determined in a summary way by some Police Magistrate [2] of Calcutta Trial of offences in Calcutta

7. Every charge of an offence against the provisions of this Act, alleged to have been committed out of Calcutta, may be heard and determined by any officer authorized to exercise any of the powers of a Magistrate in the place in which such offence may be alleged to have been committed, and the provisions of the Code of Criminal Procedure [3] shall apply to the trial of every such charge Trial of offences out of Calcutta

25 of 1861

8 [*Repeal of enactments*] *Rep by the Repealing Act, 1873 (12 of 1873)*

9. This Act shall extend to the town of Calcutta and to the suburbs of the town of Calcutta as defined by any notification under section 1 of [4] [Bengal Act 2 of 1866] Limit of Act

10. It shall be lawful for the Lieutenant-Governor of Bengal, by an order published in the Calcutta Gazette, to extend this Act to any city, town, station, bazar, cantonment, village, district or portion of a district, to be mentioned and defined in such order, and from time to time, by any order published, as aforesaid, to revoke, vary, amend or alter any such order. Power to extend Act.

[1] S 5C is new—see foot note [1] on last page.

[2] Now "Presidency Magistrate"—see the Code of Criminal Procedure, 1908 (Act 5 of 1898), s. 3, in General Acts, 1891-98, Ed. 1899, p. 382

[3] This reference to Act 25 of 1861 must now be taken to be made to the Code of Criminal Procedure, 1898 (Act 5 of 1898)—see s. 3 (1) of the latter Act.

[4] These words and figures in square brackets in s. 9 were substituted for the words and figures "the said Act 2 of 1866" by the Repealing and Amending Act, 1903 (1 of 1903), printed *ante*, p. 18. The short title of Bengal Act 2 of 1866 is "The Calcutta Suburban Police Act, 1866" the Act is printed in Vol. IV of this Code.

# THE BENGAL CRUELTY TO ANIMALS (ARREST) ACT, 1869 [1]

(BENGAL ACT 3 OF 1869)

[25th August, 1869]

## An Act to enable Police-officers to arrest without warrant persons guilty of cruelty to Animals

WHEREAS it is expedient to enable police-officers in certain places to arrest without warrant any person committing, within their view, any offence against Act 1 of 1869 [2] passed by the Lieutenant-Governor of Bengal in Council, entitled an Act for the Prevention of Cruelty to Animals, It is enacted as follows —

Arrest of person guilty of cruelty

Act to apply to Calcutta and suburbs

1 Every Police-officer may arrest without a warrant any person committing, in his view, any offence against the said Act 1 of 1869 [2]

2 This Act shall apply to the town of Calcutta, as defined in Act 4 of 1866 [3] passed by the Lieutenant-Governor of Bengal in Council, and in the suburbs of the Town of Calcutta, as the same may from time to time be defined by any notification to be from time to time published by the said Lieutenant-Governor, in pursuance of the provisions of Act 2 of 1866, [4] and, save as hereinafter is provided, to such towns and suburbs only

Power to extend Act

3 It shall be lawful for the Lieutenant-Governor of Bengal, by a

[1] SHORT TITLE — This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), printed *ante*, p 18

This Act, with Ben Acts 1 of 1869 and 3 of 1900, may be cited together as the Bengal Cruelty to Animals Act, 1869 to 1900—see Bengal Act 3 of 1900, s 3 (2), *post* p 73

LEGISLATIVE PAPERS — For Proceedings in Council, see the Calcutta Gazette, 1869, Supplement pp 504 525 and 542

LOCAL EXTENT — This Act applies to the town and suburbs of Calcutta (see s 2), and may be extended to any town, suburb, district or tract of country in Bengal (see s 3)

For a list of places to which the Act has been extended under s 3, see the Bengal Local Statutory Rules and Orders, 1903, Vol I, pp 96, 97

The application of the Act is barred—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s 3 (2), printed *post*,

in the Chittagong Hill tracts, by the Chittagong Hill tracts Regulation, 1900 (1 of 1900), s 4 (2), printed *post*, and

in the Sonthal Parganas by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s 3, printed *post*

REPRINT.— This Act has been re-published with the reprint (issued by the Legislative Department of the Government of Bengal) of Ben Act 1 of 1869, as modified by subsequent legislation up to the 1st December, 1903

[2] The Bengal Cruelty to Animals Act, 1869 It is printed *ante*, p. 69.

[3] The Calcutta Police Act, 1866 It is printed in Vol IV of this Code

[4] The Calcutta Suburban Police Act, 1866 It is printed in Vol IV of this Code.

[Ben. Act 3 of 1900 ]

CRUELTY

(Secs 1-3)

notification to be published in the Calcutta Gazette, to extend this Act to any town, suburb, district or tract of country, to be mentioned and defined in such notification, and from and after the publication of such notification this Act shall extend and apply to the town, suburb, district or tract of country therein mentioned and defined

## THE BENGAL CRUELTY TO ANIMALS ACT, 1900

(BENGAL ACT 3 OF 1900) [1].

[9th May, 1900 ]

An Act to amend Bengal Act 1 of 1869<sup>[2]</sup> (an Act for the prevention of cruelty to animals)

WHEREAS it is expedient to amend Bengal Act 1 of 1869<sup>[2]</sup> (*an Act for the prevention of cruelty to animals*), It is hereby enacted as follows —

1. For section 1 of Bengal Act 1 of 1869 (*an Act for the prevention of cruelty to animals*) the following shall be substituted, namely —

Amendment  
of section 1  
of Bengal  
Act 1 of 1869

[Printed *ante*, p 69 ]

2 For section 5 of the said Act the following shall be substituted, namely —

Amendment  
of section 5  
of Bengal  
Act 1 of 1869

[Printed *ante*, pp 70, 71 ]

3. (1) This Act may be called the Bengal Cruelty to Animals Act, 1900

Short-titles

(2) This Act, the aforesaid Bengal Act 1 of 1869, <sup>[2]</sup> and Bengal Act 3 of 1869<sup>[3]</sup> (*an Act to enable Police-officers to arrest without warrant persons guilty of cruelty to animals*) may be cited together as the Bengal Cruelty to Animals Acts, 1869 to 1900

[1] LEGISLATIVE PAPERS —For Statement of Objects and Reasons, *see* Calcutta Gazette, 1900, Pt IV, p 2, and for Proceedings in Council, *see ibid*, Special Supplement, January, 1900, p 555, February, 1900, pp 7, 11, 41 and 68

LOCAL EXTENT —The local extent of this Act is the same as that of Bengal Act 1 of 1869, printed *ante*, page 69

The application of the Act is barred —

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s 3 (2), printed *post*,

in the Chittagong Hill tracts, by the Chittagong Hill tracts Regulation, 1900 (1 of 1900), s 4 (2), printed *post*, and

in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s 3, printed *post*

REPRINT —This Act has been re published with the reprint (issued by the Legislative Department of the Government of Bengal) of Ben. Act 1 of 1869 as modified by subsequent legislation up to the 1st December, 1903.

[2] Printed *ante*, p 69.

[3] Printed *ante*, p 72

# BOARD OF REVENUE

Reg 3 of 1822	.	.	the Bengal Board of Revenue Regulation, 1822	page 74
Act 44 of 1850			the Bengal Board of Revenue Act, 1850	„ 78

## THE BENGAL BOARD OF REVENUE REGULATION, 1822 [1]

(REGULATION 3 OF 1822)

[19th March, 1822]

A Regulation for modifying the constitution [2] [of the Board of Revenue, and for controlling the distribution of powers between the members of the Board]

### Preamble

1 WHEREAS the superintendence of the Delhi territory has recently been vested in the Board of Commissioners for the Ceded and Conquered Provinces, and for this and other causes it has become necessary to relieve the said Board from the charge of a portion of the districts now under their control, and whereas it is also desirable to modify the constitution and alter the jurisdiction of the several Boards [3] intrusted with the management of the land-revenue, the following rules have been enacted, to be in force from the date of their promulgation:—

[1] SHORT TITLE—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), printed *ante*, p. 18

LOCAL EXTENT—This Regulation has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (printed, General Acts, 1863-76, Ed. 1898, p. 485), to be in force throughout Bengal, except as regards the Scheduled Districts

The Regulation has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874) section 3, to be in force in the following Scheduled Districts, namely:—

West Jalpaiguri, in the Jalpaiguri District—*see* Vol. V, Part VB (a), and the Western Hills, the Tarai and the Dumson Sub division, in the Darjeeling District—*see ibid*

The application of the Regulation is barred—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s. 3 (2), printed *post*,

in the Chittagong Hill-tracts, by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed *post*, and

in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3, printed *post*

[2] These words in square brackets in the title of this Regulation were substituted for the original words by the Repealing and Amending Act, 1903 (1 of 1903), *ante*, p. 18.

[3] Ben. Reg. 3 of 1822, having been repealed as to the United Provinces, this Regulation now relates only to the Board of Revenue for the Lower Provinces of the Presidency of Fort William in Bengal (so styled by Act 44 of 1850, s. 3, *post*, p. 79)

## [Reg. 3 of 1822] THE BENGAL BOARD OF REVENUE REGULATION, 1822

(Secs 4, 5)

2, 3 [Repeals, three Boards of Revenue established, for the Lower, Central and Western Provinces, respectively] Rep by the Repealing Act, 1874 (16 of 1874)

4 First—[1] [The Board of Revenue for the Lower Provinces of the Presidency of Fort William in Bengal shall] consist of such number of members as the Governor General in Council may from time to time appoint [2]

Power to  
appoint mem-  
bers

Second, Third [Sittings of Boards to be daily, forms of proceedings, sadar station] Rep by the Repealing Act, 1874 (16 of 1874)

5 First—It shall be competent to [3] [the Lieutenant-Governor] to authorize a single member of [4] [the said Board] to exercise, either generally or locally, all the duties, powers and authority which are vested in the Board collectively, whenever circumstances may render such an arrangement desirable

Power to  
authorize  
single mem-  
ber to exercise  
duties of  
Board,

[1] These words in square brackets in s 4 were substituted for the words "The said Boards shall each of them" by the Repealing and Amending Act, 1903 (1 of 1903), ante, p 18

[2] As to where the Board is to be stationed and where members are to reside, see the Bengal Revenue Commissioners Regulation 1829 (1 of 1829), s 4 (1), (2), post

For a list of the powers of the Board, see the Board's Rules, 1902, pp 11 to 21

As to the general duties of the Board, see *ibid*, pp 48 and 49

The Board of Revenue is the Court of Wards—see the Court of Wards Act, 1879 (Ben Act 9 of 1879), s 5, post

As to the division of work between the two Departments or Sections of the Board, and as to tours by the Members, see *ibid*, p 49

As to the control of Government over the Board, see the Bengal Revenue Commissioners Regulation, 1829 (1 of 1829), s 4 (2), post

As to the exercise of functions of the Board by other authorities, see—

- (1) the present Regulation, s 5, clauses First and Third, pp 75 and 76 (a single member of the Board) s 5, clause Seventh, post, p 77 (temporary or provisional members of the Board),
- (2) the Bengal Land revenue Settlement Regulation, 1822 (7 of 1822), s 35, in Vol II of this Code (Boards, Committees and Commissions specially vested with powers and authority of the Board of Revenue),
- (3) the Bengal Revenue Commissioners Regulation, 1829 (1 of 1829), s 4, clause First, post (Commissioners of Divisions), and
- (4) the Angul District Regulation, 1894 (1 of 1894), s 15, clause 3, column 2, post, (the Superintendent of the Orissa Tributary Mahals),

and see also—

- (a) the Sonthal Parganas Act, 1855 (27 of 1855), s. 2, post, which vests the collection of the revenue in the Sonthal Parganas in specially appointed officers, and
- (b) the Chittagong Hill tracts Regulation, 1900 (1 of 1900), s. 7, post, which vests the general administration of the Chittagong Hill-tracts, in revenue and other matters, in the Superintendent of those Tracts

As to the control of Commissioners by the Board, see the Bengal Revenue Commissioners Regulation, 1829 (1 of 1829), s. 4 (1), post.

[3] These words in square brackets, in s. 5, were substituted for the words "the Governor General in Council, by an order in Council" by the Amending Act, 1891 (12 of 1891), printed, General Acts, 1891-98, Ed. 1899, p. 32.

[4] These words in square brackets in s. 5 were substituted for the words "any of the said Boards" by the Repealing and Amending Act, 1903 (1 of 1903), ante, p. 18.

and several  
members  
separately to  
exercise part  
of duties

It shall further be competent to [1] [the Lieutenant-Governor] to authorize the several members of the said Board separately to exercise at the same time, and within the same limits, such part of the said duties, powers and authority as it may from time to time be judged proper to assign to each respectively, whenever, for the greater dispatch of business or other cause, it may appear advisable to divide the business of the Board, or to assign any special duty to any member separately

Provided, however, that if a member exercising singly, as above, the duties, powers and authority of the Board, or any part thereof, shall in any case be of opinion that any decision or order of a [2] [Commissioner or] Collector ought to be reversed or altered, he shall not pass any final order on the case without the concurrence of one or more of the other members, unless otherwise specially directed and authorized by [3] [the Lieutenant Governor]

Provided further that it shall not be competent to a single member of [4] [the Board] to reverse or alter a decree or order passed by any other member

Provided also that no settlement of the land-revenue, whether in perpetuity or for a term of years, shall be, or be held, final and binding upon Government, unless the same shall have been [5] [made or confirmed in accordance with rules sanctioned] by the Governor General in Council

Procedure  
where differ-  
ence of opin-  
ion arises

*Second* — Whenever two members of [4] [the Board] shall jointly or separately have considered any question, if a difference of opinion shall arise between them, the decision of the question shall be postponed, and the case shall be referred to a third member, permanent or provisional, in such mode as may from time to time be directed by [3] [the Lieutenant-Governor] and shall be determined according to the majority of voices

Appointment,  
removal or  
punishment of  
Collector's

*Third* — In regard to the appointment, removal or punishment of the Native officers of Collectors of land-revenue or other functionaries subordinate to the [6] [Board], a single member vested as above with authority separately

[1] These words in square brackets were substituted for the words "the Governor General in Council similarly" by the Amending Act, 1891 (12 of 1891), printed, General Acts, 1891-98, Ed 1899, p. 32

[2] The words "Commissioner or" were inserted by the same Act

[3] The words "the Lieutenant-Governor" were substituted for the word "Government" by the same Act

[4] The words "the Board" in s. 5, clauses *First* and *Second*, were substituted for the words "a Board" by the Repealing and Amending Act, 1903 (1 of 1903), *ante*, p. 18

[5] The words "made or confirmed in accordance with rules sanctioned" were substituted for the words "formally confirmed" by the Amending Act, 1891 (12 of 1891), printed, General Acts, 1891-98, Ed. 1899, p. 32.

[6] The word "Board" in s. 5, clause *Third*, was substituted for the word "Boards" by the Repealing and Amending Act, 1903 (1 of 1903), *ante*, p. 18



## of 1822 ] THE BENGAL BOARD OF REVENUE REGULATION, 1822

(Sec 5)

to exercise the powers of the Board or any part thereof shall, within the limits of his authority, be competent to proceed in the same manner as the Native officers by single member

Board collectively are authorized to proceed

Provided that, in any such case, if a member of the Board acting singly shall differ in opinion from a Collector [1] or other functionary immediately subordinate to them, he shall not, unless otherwise specially authorized by [2] [the Lieutenant-Governor], pass any final order without the concurrence of one or more members of the Board Proviso

*Fourth* —No final orders regarding the appointment, removal or punishment of officers belonging or immediately subordinate to the Board shall (unless otherwise specially directed by [3] [the Lieutenant Governor]) be issued without the concurrent judgment of two or more members Two members necessary to appoint, remove or punish officers of Board

*Fifth* —Single members exercising separate authority as above shall be competent to suspend any officer under their authority, in like manner as the Board collectively may do, but all orders regarding the suspension of any such officer passed by a single member, unless in confirmation of an order or recommendation of a Collector [1] or other intermediate authority, or unless specially authorized by [3] [the Lieutenant-Governor], shall be reported without loss of time to some other member, and shall be liable to be set aside by the decision of a majority of the Board Single member may suspend any officer

*Sixth* —The [4] [Board] are authorized to review, rescind, alter or confirm any order and decision passed by them collectively, or by any member exercising, as above, separate authority, if an application to that effect be made to them by any party interested in the case, within the period of three months from the date on which the order or decision may have been passed, or good and sufficient cause shown for a further delay, and if, from the documents exhibited, the case shall appear to merit further investigation Board may review, etc., their decisions

But no order or decision passed by a single member exercising separate authority shall be reversed, altered or stayed excepting on the concurrent judgment of two or more members

*Seventh.*—To provide for cases wherein the members of the Board shall not Procedure where

[1] As to the exercise of functions of Collectors by other officers, see the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 35, in Vol II of this Code

[2] The words "the Lieutenant Governor," in the proviso to clause *Third* of section 5, were substituted for the word "Government" by the Amending Act, 1891 (12 of 1891), printed in General Acts, 1891-98, Ed. 1899, p. 32

[3] The words "the Lieutenant Governor," in clauses *Fourth* and *Fifth* of section 5, were substituted for the words "the Governor General in Council" by the same Act

[4] The word "Board" in s 5, clause *Sixth*, was substituted for the word "Boards" by the Repealing and Amending Act, 1908 (1 of 1908), *ante*, p. 18

## (Preamble)

members  
equally divid-  
ed in opinion

agree in opinion as to the decision or order to be passed in any case, and wherein the voices on each side may be equal, it shall be competent to the Governor General in Council to appoint one or more temporary or provisional members, who shall, in regard to the investigation and determination of the questions so in dispute, have and exercise the same powers and authority as if they ordinarily belonged to the Board, and, if a difference of opinion as aforesaid shall arise between two members of the Board holding joint sittings at any place where a temporary or provisional member may be stationed, the other permanent member or members of the Board being absent, it shall and may be lawful for them, without reference to such absent member, to submit the question in dispute to the provisional member, and to issue orders in conformity with the opinion which he may support

## THE BENGAL BOARD OF REVENUE ACT, 1850 [1]

(ACT 44 OF 1850)

[27th December, 1850]

An Act for consolidating the Board of Customs, Salt and Opium and the Sadar Board of Revenue in the Lower Provinces of Bengal

Preamble

WHEREAS, by Regulation 4, 1819,[2] of the Bengal Code, a Board of Revenue in the Customs, Salt and Opium Department was constituted in the Province of Bengal, with all the duties, powers and authorities of the Board

[1] SHORT TITLE—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), printed *ante*, p 18

LOCAL EXTENT—This Act has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s 6 (printed, General Acts, 1868-76, Ed 1898, p 485), to be in force throughout Bengal, except as regards the Scheduled Districts

The Act has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s 3, to be in force in the following Scheduled Districts, namely—

West Jalpaiguri, in the Jalpaiguri District—*see* Vol V, Part V, B (a), and the Haveribagh, Rancho, Palamau and Maubhum Districts, and Pargana Dhalbhum, and the Kolhan in the Singhbhum District, in the Chota Nagpur Division—*see ibid*, Part V, B (b)

The application of the Act is barred—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894) s 3 (2), *post*  
in the Chittagong Hill-tracts, by the Chittagong Hill tracts Regulation, 1910 (1 of 1900), s 4 (2), *post*, and

in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s 3, *post*

[2] Ben. Reg. 4 of 1819 was repealed by s. 1 of this Act

of 1850 ] THE BENGAL BOARD OF REVENUE ACT, 1850

(Secs 2, 3)

of Revenue with respect to customs and town duties, and with the powers theretofore possessed by the Board of Trade in the Salt and Opium Departments, and whereas it is not now necessary that this Board should be continued separate from the Board of Revenue in the Lower Provinces of Bengal, It is enacted as follows —

1 [*Repeal of Regulation 4 of 1819*] *Rep by the Repealing Act, 1870 (14 of 1870)*

2. All powers and duties now vested in, or belonging to, the Board of Revenue in the Customs, Salt and Opium Department and its officers respectively shall be transferred to the Sadar Board of Revenue<sup>[1]</sup> constituted in the said Lower Provinces according to Regulation 1, 1829,<sup>[2]</sup> of the Bengal Code, and its officers, respectively

Powers of Board of Customs, Salt and Opium transferred to Sadar Board

and all Acts and Regulations now in force relating to the said Customs, Salt and Opium Board of Revenue or its officers shall be understood henceforth as if the said Sadar Board of Revenue and its officers had been respectively mentioned therein instead of the said Board of Customs, Salt and Opium and its officers

3. The said Sadar Board of Revenue shall be henceforth styled the Board of Revenue for the Lower Provinces of the Presidency of Fort William in Bengal<sup>[3]</sup>

Style of Board

[1] As to the exercise of functions of the Board of Revenue by other authorities, see the references cited in the foot note to Reg 3 of 1822 s 4, *ante* p 70

[2] The Bengal Revenue Commissioners Regulation, 1829 See s 4 (1) and (2) of that Regulation, *post*

[3] These provinces are now usually called "Bengal," which expression is defined in the Bengal General Clauses Act, 1899 (Ben Act 1 of 1899), s 3, cl (5), printed *ante*, p 4

# BURIAL BOARDS

## BURIAL OF CHRISTIANS—

Ben Act 5 of 1881                      the Calcutta Burial Boards,  
Act, 1881                      .                      page 80

## BURIAL OF MUHAMMADANS AND OTHERS—

Ben Act 4 of 1889                      the Calcutta Burial Boards  
Act, 1889                      .                      „                      83

## THE CALCUTTA BURIAL BOARDS ACT, 1881

(BENGAL ACT 5 OF 1881) [1]

[20th July, 1881]

### An Act to provide for the appointment of a Burial Board in Calcutta and its Suburbs

Preamble                      WHEREAS it is expedient to make better provision for the general manage-  
ment, regulation and control of the Government burial-grounds in the town of  
Calcutta and its suburbs, It is hereby enacted as follows —

Short title                      1. This Act may be called the Calcutta Burial Board's Act, 1881  
[Commencement.]    Rep by the Repealing and Amending Act, 1903 (1 of  
1903)

Lieutenant                      2. The Lieutenant-Governor of Bengal may, by a notification published in  
Governor may                      the Calcutta Gazette, appoint a Burial Board for the Town and Suburbs of  
appoint a                      Calcutta  
Burial Board

Constitution                      3 The Board shall be constituted as follows —  
of Board                      the Chairman of the Calcutta Corporation ,  
the Health Officer of Calcutta ,  
an Officer of the Public Works Department, to be appointed by the  
Lieutenant-Governor of Bengal ,  
the Senior Chaplain of St John's Church in Calcutta ,  
a clergyman of the Church of Rome, to be nominated by the Arch-  
bishop and Vicar Apostolic of Western Bengal ,

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[1] LEGISLATIVE PAPERS —For Statement of Objects and Reasons, see Calcutta Gazette 1881, Pt. IV, p. 6; and for Proceedings in Council, see *ibid*, Supplement, 1881, pp 187, 205 and 261

LOCAL EXTENT.—This Act extends only to the town and suburbs of Calcutta—see the title and the preamble

## [Ben. Act 5 of 1881.] BURIAL OF CHRISTIANS

(Secs. 4 8.)

a Protestant Nonconformist Minister, to be nominated by the Lieutenant-Governor of Bengal,  
not less than three and not more than six other members to be nominated by the Lieutenant-Governor of Bengal

The Lieutenant-Governor of Bengal may, from time to time, relieve any member of the Board nominated by him of his functions as such member

4 The Chairman of the Board shall be nominated by the Lieutenant-Governor of Bengal

Chairman to be appointed by Lieutenant Governor.

5. The Lieutenant-Governor of Bengal may, by a notification published in the Calcutta Gazette, place under the control of the Board all or so many of the Government burial-grounds (not being military burial-grounds) situate in the Town or Suburbs of Calcutta as to him shall seem fit, and the general management, regulation and control of such burial-grounds shall, subject to the provisions of this Act, be thereupon vested in, and exercised by, the Board

Lieutenant Governor may place Government burial-grounds under the Board

6 The Board shall receive all fees and other moneys paid or given in respect of the use of such burial-grounds, and the erection of monuments therein, and such grants as Government may from time to time place at their disposal, and shall pay thereout all charges and expenses incurred by them in the management of the same, and shall submit accounts of such receipts and expenditure once in every year to the Lieutenant-Governor of Bengal, in such form and manner as the Lieutenant-Governor may direct

Board to receive and account for fees and grants

7. The Board may from time to time appoint all such overseers, clerks, subordinate officers and servants as they shall think necessary and proper to assist in carrying out the purposes of this Act, and may from time to time remove any of such persons and appoint others in their place.

Board may appoint subordinate establishments.

8. The Board may, with the sanction of the Lieutenant-Governor of Bengal, from time to time make such rules [1] consistent with the purposes of this Act, as they may think necessary for any of the following purposes; that is to say —

Power to make rules.

- (a) for regulating the times when the Board shall meet and the procedure to be observed at such meetings;
- (b) for securing the preservation, repair or removal of existing monuments,

[1] For rules, see the Bengal Local Statutory Rules and Orders, 1908, Vol. II, pp. 18 to 25.

BURIAL BOARDS  
BURIAL OF CHRISTIANS [Ben Act 5 of 1881]  
(Secs 9, 10)

and for regulating the dimensions and erection of new monuments, in any burial-ground under their charge,

(c) for regulating the mode of payment of fees, charges and other dues in respect of interments in any such burial-ground and for the expenditure of the same,

(d) for directing the manner in which and the persons by whom all works within any such burial-ground shall be executed, and

(e) for otherwise carrying out the purposes of this Act,

and may from time to time, with the sanction aforesaid, vary, alter or revoke any such rules so made

All rules so made and variations, alterations or revocations of rules shall be published in the Calcutta Gazette

9. The Lieutenant-Governor of Bengal may in his discretion at any time withdraw any burial-ground from the control and management of the Board

Power to  
withdraw  
burial-  
grounds from  
control of  
Board

Provision for  
making over  
private  
cemeteries to  
charge of  
Board

10. It shall be lawful for the proprietors of any Christian burial-ground with the sanction of the Lieutenant-Governor of Bengal, to place the same under the management, regulation and control of the Board on such terms and conditions as the Lieutenant-Governor may approve and such burial-ground shall thereupon be managed in all respects as a Government burial ground subject to the provisions of this Act

## THE CALCUTTA BURIAL BOARDS ACT, 1889

(BENGAL ACT 4 OF 1889)

### PREAMBLE

### SECTION

1. Commencement of Act
2. Definition of "public Muhammadan burial-ground."
3. Local Government may appoint a Burial Board
4. Constitution of Board.
5. Chairman of Calcutta Corporation to be *ex-officio* Chairman of Board
6. Superintendence, management or control of public Muhammadan burial-grounds enumerated in the First Schedule to be exercised by Board
7. Local Government may place other public Muhammadan burial-grounds under superintendence, management or control of Board
8. Provision for making over private burial-grounds to charge of Board.

## [Ben Act 4 of 1889] BURIAL OF MUHAMMADANS AND OTHERS

(Sec 2)

## SECTION.

- 9 Power in Board to create new burial-grounds or extend those already in existence by purchase of land
- 10 Power to withdraw burial-grounds from superintendence, management or control of Board
- 11 Board to receive and account for fees and grants
- 12 Board may appoint subordinate establishment
- 13 Power to make rules
- 14 Power to provide for control of burial-grounds used by other than Christians or Muhammadans

*The First Schedule**The Second Schedule*THE CALCUTTA BURIAL BOARDS ACT, 1889<sup>[1]</sup>

(BENGAL ACT 4 OF 1889)

[11th September, 1889]

An Act to provide for the appointment of a Muhammadan Burial Board in Calcutta, and to make better provision for the interment of persons other than Christians or Muhammadans

Preamble

WHEREAS it is expedient to make better provision for the superintendence, management or control of the Muhammadan burial-grounds, and for the interment of persons other than Christians or Muhammadans, in Calcutta as defined in the Calcutta Municipal Consolidation Act of 1888 [2]

Ben Act 2 of 1888

It is hereby enacted as follows

1 [Commencement of Act] *Rep by the Repealing and Amending Act, 1903 (1 of 1903)*

2. In this Act "public Muhammadan burial-ground" includes those Muhammadan burial-grounds enumerated in the First Schedule, and any others in which Muhammadans generally of any particular sect are in the habit of burying their dead

Definition of  
"public  
Muhammadan  
burial  
ground."

[1] SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903, (1 of 1903), printed *ante*, p 18

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1889, Pt IV, p 29, for Report of Select Committee, see *ibid* p 85, and for Proceedings in Council, see *ibid* Supplement, 1889, pp. 664, 714, 955, 1320 and 1369.

LOCAL EXTENT.—This Act extends to "Calcutta" as defined in the Calcutta Municipal Act, 1899 (Ben Act 3 of 1899), i.e., the town and suburbs of Calcutta (see the preamble), and may be applied to public Muhammadan burial-grounds in the "vicinity" of Calcutta (see ss 7 to 9), and to certain burial grounds in unspecified places (see s 14)

[2] Ben Act 2 of 1888 has been repealed and re-enacted by the Calcutta Municipal Act, 1899 (Ben Act 3 of 1899), and this reference should now, in accordance with section 10 of the Bengal General Clauses Act, 1899, Ben. Act 1 of 1899, *ante*, p 10, be construed as a reference to clause (7) of section 3 of the said Calcutta Municipal Act, 1899. The Act of 1899 is printed in Vol. III of this Code.

Local Govern-  
ment may  
appoint a  
Burial Board  
Constitution  
of Board

3. The Local Government may, by a notification published in the Calcutta Gazette, appoint a Muhammadan Burial Board for Calcutta.

4 (1) The Board shall be constituted as follows —

the Chairman for the time being of the Corporation of Calcutta,  
the Health Officer for the time being of Calcutta,  
an officer of the Public Works Department appointed by the  
Local Government,

and not less than six, or more than nine, other members, who  
shall be Muhammadans appointed by the Local Government

(2) The Local Government may, from time to time, relieve any mem-  
ber of the Board appointed by it of his functions as such member.

Chairman of  
Calcutta  
Corporation  
to be *ex  
officio* Chan-  
man of Board

5 The Chairman of the Corporation of Calcutta shall *ex-officio* be Chairman  
of the Board

Superintend-  
ence man-  
agement or  
control of  
public Mu-  
hammadan  
burial  
grounds enu-  
merated in  
the First  
Schedule to  
be exercised  
by Board

6 The superintendence, management or control of the public Muham-  
madan burial-grounds enumerated in the First Schedule shall, subject to the  
provisions of this Act, be exercised by the Board

Provided that the Muhammadan Burial Board shall not exercise control  
over such portion of any public Muhammadan burial-ground as the Local  
Government may declare to have been hitherto set apart for the burial of  
persons other than Muhammadans

Local Govern-  
ment  
may place  
other public  
Muhammadan  
burial  
grounds under  
superinten-  
dence,  
management  
or control of  
Board

7 The Local Government may, by an order published in the Calcutta  
Gazette, from time to time place any other public Muhammadan burial-  
ground in Calcutta or its vicinity under the superintendence, management or  
control of the Board

Provision for  
making over  
private burial-  
grounds to  
charge of  
Board

8. (1) The superintendence, management or control of any Muhammadan  
burial-ground situate in, or in the vicinity of, Calcutta may, with the sanction  
of the Local Government, be transferred by the owner or custodian thereof to  
the Board upon such terms as may be arranged between the Board and such  
owner or custodian.

(2) And such burial-ground shall thereupon be managed in all respects  
as a public Muhammadan burial-ground subject to the provisions of this Act.



of 1889 ]

## BURIAL OF MUHAMMADANS AND OTHERS

(Secs 9-13)

9 The Board may, with the sanction of the Local Government, purchase any land in, or in the vicinity of, Calcutta, whether previously used as a burial-ground or not, with the object of extending any public burial-ground under its charge or of forming a new public burial-ground.

Power in Board to create new burial grounds or extend those already in existence by purchase of land

10. The Local Government may, in its discretion at any time, withdraw any burial-ground from the superintendence, management or control of the Board

Power to withdraw burial grounds from superintendence, management or control of Board

11. The Board shall receive all fees and other monies paid or given in respect of the use of such burial-grounds, the digging of graves and the erection of monuments therein, and such grants as the Local Government may, from time to time, place at their disposal, and shall pay thereout all charges and expenses incurred by them in the management and superintendence of the same, and shall submit accounts of such receipts and expenditure once in every year to the Local Government in such form and manner as the Local Government may direct

Board to receive and account for fees and grants

12 The Board may, from time to time, appoint all such overseers, clerks, subordinate officers and servants as they shall think necessary and proper to assist in carrying out the purposes of this Act, and may, from time to time, remove any of such persons and appoint others in their place.

Board may appoint subordinate establishment.

13. (1) The Board may, with the sanction of the Local Government, from time to time make such rules [1] consistent with the purposes of this Act, as they think necessary for any of the following purposes, that is to say—

Power to make rules.

(a) for regulating the times when the Board shall meet, and the procedure to be observed at their meetings ;

(b) for the preservation, repair, and when necessary the removal, of existing monuments, and for regulating the dimensions of new monuments in any burial-ground under their charge ,

(c) for regulating the scale and mode of payment of fees, charges and other dues in respect of interments in any burial-ground, and for the expenditure of the same ;

(d) for directing the manner in which, and the persons by whom, all works within any such burial-ground shall be executed; and

[1] For rules, see the Bengal Local Statutory Rules and Orders, 1903, Vol. II, p. 25.

## BURIAL OF MUHAMMADANS AND OTHERS [Ben Act 4

(Sec 14—*The First Schedule*)

(e) for otherwise carrying out the purposes of this Act

(2) And may, from time to time, with the sanction aforesaid, vary, alter or revoke any such rules so made.

(3) All rules so made, and variations, alterations or revocations of rules, shall be published in the Calcutta Gazette

Power to  
provide for  
control of  
burial  
grounds used  
by other than  
Christians or  
Muhammad  
ans

14 The Local Government may constitute the three members of the Board enumerated in section 4 a Board for the superintendence, management or control of public burial-grounds used for the interment of persons other than Christians or Muhammadans,

and may place under the Board the Chota Gobra Gorastan specified in the Second Schedule as well as such portions of public Muhammadan burial-grounds as may be excluded from the control of the Muhammadan Burial Board under section 6, and any other similar burial-grounds which the Local Government may from time to time think it expedient to place under the Board,

and the Board so constituted shall exercise the same powers with regard to such burial-grounds as are vested in the Muhammadan Burial Board by sections 11, 12 and 13 of this Act.

## THE FIRST SCHEDULE

(See section 6) [1]

## SCHEDULE OF PUBLIC MUHAMMADAN BURIAL-GROUNDS PLACED UNDER SUPER-INTENDENCE, MANAGEMENT, OR CONTROL OF BOARD.

- (1) Chopdar Bagan burial-ground, No 54, Upper Circular Road, and Nos. 26 and 27, Manicktollah Area of public portion, 3 bighas, 12 cottahs, 3 chitacks, more or less.
- (2) Meah Bagan burial-ground, Nos. 52 and 53, Manicktollah Area of public portion, 3 bighas, 1 cottah, 7 chitacks, more or less
- (3) Khodadad's burial-ground, No 15 Moonsheepara Lane Area, 4 bighas, 18 cottahs, 7 chitacks, more or less
- (4) Rahim-ud-deen Moonshee's burial-ground, No 20, Canal Road, West. Area, 5 bighas, 16 cottahs, 7 chitacks, more or less.
- (5) Gobra Gorastan, No 1, Gobra Road. Area, 6 bighas, more or less
- (6) Talbagan burial-ground, No. 6, Tiljullah 1st Lane Area, 10 bighas, 11 cottahs, more or less.

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[1] This schedule is also referred to in s 2, ante, p. 83.

of 1889 ]

## BURIAL OF MUHAMMADANS AND OTHERS

*(The Second Schedule)*

- (7) Talbagan Khoyratee Gorastan, No 7, Tiljullah 1st Lane Area, more or less, 1 bigha, 3 cottahs
- (8) New Kasiabagan burial-ground, Tiljullah 1st Lane Area of Muhammadan portion, 12 bighas, more or less
- (9) Sola anna Kobiastan, No 70, Ekbalpoie Road. Area, 17 bighas, 18 cottahs, more or less
- (10) Moonsthee Ahmud Begg Ke Kobiastan, Halsu Talua, Ramnugger Lane Area, 4 bighas, more or less

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 THE SECOND SCHEDULE
*(See section 14)*

CHOTA GOBRA GORASTAN PLACED UNDER SUPERINTENDENCE, MANAGEMENT OR CONTROL OF BOARD CONSTITUTED UNDER SECTION 14.

Chota Gobra Gorastan, Nos 11 and 13, Gobra Gorastan Road. Area 2 bighas, 5 cottahs, more or less

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# CANALS.

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## THE CANALS ACT, 1864

(BENGAL ACT 5 OF 1864)

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[1] This table has been newly added

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[Ben. Act 5 of 1864] THE CANALS ACT, 1864

(Preamble)

## THE CANALS ACT, 1864

(BENGAL ACT 5 OF 1864) [1]

[8th June, 1864]

An Act to amend and consolidate the law relating to the collection of tolls on canals and other lines of navigation, and for the construction and improvement of lines of navigation, within the Provinces under the control of the Lieutenant-Governor of Bengal

WHEREAS it is expedient to amend and consolidate the law relating to the Preamble

[1] LOCAL EXTENT—This Act extends to the whole of Bengal (*see* the title), and applies to navigable channels notified under s 2 or authorised under s 3

For a list of channels to which the Act has been so applied, *see* the Bengal Local Statutory Rules and Orders, 1903, Vol I, pp 78 to 80

The Act has been declared, by notification under the Scheduled Districts Act 1874 (14 of 1874), s 3, to be in force in the following Scheduled Districts, namely—

the Hazaribagh, Ranchi, Palamau and Manbhum Districts, and Pargana Dhalbhum and the Kolhan in the Singhbhum District, in the Chota Nagpur Division—*see* Vol V, Part V, B (b)

The application of the Act is varied in the de regulationised tracts in Bengal as follows, namely—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s 3 (2), *post*,  
in the Chittagong Hill tracts, by the Chittagong Hill tracts Regulation, 1900 (1 of 1900), s 4 (2), *post*, and

in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s 3 *post*

REPRINTS, RULES AND ORDERS—The Act is reprinted in the Irrigation Manual, 1897, Vol II, pp 57 to 59, the Orrisa Canals Manual, 1896, pp 97 to 101, and the Sone Canals Manual, 1900, pp 182 to 187

For rules and orders issued under or with reference to the Act, *see* the Irrigation Manual, 1897, Vol I, pp 125 to 169

For rules and notifications issued under or with reference to the Act for the Orrisa and other Canals and for some correspondence as to canals, *see* the Orrisa Canals Manual, 1896, pp 101 to 180

For miscellaneous rules and orders relating to canals in Orrisa, *see* *ibid*, pp 203, *et seq*

For notifications and rules issued under the Act for the Sone Canals, and for rules, instructions, Resolutions, letters and other documents issued with reference to the Act for the Sone Canals, *see* the Sone Canals Manual, 1900 pp 187, *et seq*

For a list of rules and orders issued under the Act, *see* also the Bengal Local Statutory Rules and Orders, 1903, Vol I, pp 78 to 84

OTHER ENACTMENTS—As to canals, *see* also the enactments printed under the head, “Embankments” *post*, and under the head “Irrigation” in Vol II of this Code, and the Karatoya Tolls Act, 1856 (22 of 1856), s 5, in Vol II of this Code

As to the transfer of Orrisa and Bihar Canals by the East India Irrigation and Canal Company, *see* the East India Irrigation and Canal Act, 1860 (32 & 33 Vict, c 7), printed in the Collection of Statutes relating to India, Vol. I, p 444.

The Bengal Embankment Act, 1882 (Ben Act 2 of 1882), does not apply to any embankment, land or watercourse which is under the operation of the present Act—*see* s 91 of the Act of 1882, printed *post*

COLLECTION OF CANAL TOLLS BY MUNICIPAL COMMISSIONERS—For power to appoint the Municipal Commissioners to collect tolls, under section 8 of the present Act, on navigable channels passing through a Municipality, *see* the Bengal Municipal Act, 1884, s 171, in Vol. III of this Code As to the crediting of profits to the Municipal Fund, and as to the exercise by the Commissioners of the powers vested by the present Act in the Collector, *see* *ibid*. As to the cancellation of orders made under the said s. 171, *see* *ibid*, s. 172.

collection of tolls on \* \* \* [1] canals and lines of navigation  
 \* \* \* \* [2], and to authorize the collection  
 of tolls on such other lines of navigation as may hereafter be rendered subject  
 to the provisions of this Act, and to provide for the construction and  
 improvement of lines of navigation, It is enacted as follows —

Interpreta-  
 tion

1 The following words shall have the several meanings hereby assigned  
 to them, unless where a contrary intention shall appear from the context, this  
 is to say —

Vessel

the word “vessel” shall include any ship, barge, boat, raft, timber, bamboos  
 or floating materials, propelled in any manner

Line of  
 navigation

the words “line of navigation” shall mean any navigable channel subject  
 to the provisions of this Act

Channel

the word “channel” shall include any river, canal, khal, nala or water-  
 way, whether natural or artificial

Person

the word “person” shall include any company, association or body of  
 persons, whether incorporated or not

[*Number and gender*] *Rep by the Repealing and Amending Act, 1903 (1  
 of 1903). See now the Bengal General Clauses Act, 1899, s 14, ante, p 10*

What  
 navigable  
 channels may  
 be rendered  
 subject to  
 provisions of  
 Act

2 It shall be lawful for the Lieutenant Governor of Bengal, from time to  
 time, by notification to that effect published in the Calcutta Gazette, to declare  
 that the provisions of this Act shall apply to any navigable channel specified  
 in such notification,

and from and after such publication the provisions of this Act shall apply  
 to, and be in force as regards, such navigable channel \* \* \* [3]

By whom  
 navigable  
 channels may  
 be made

3 It shall be lawful for the Lieutenant-Governor of Bengal, from time to  
 time, to authorize any person to make and open any navigable channel, or to  
 clear and deepen any navigable channel, and to stop any watercourse, or  
 make any tracking path, or do any other act necessary for the making or  
 improvement of any such channel, and any navigable channel made under  
 this section shall be rendered subject to the provisions of this Act in the man-  
 ner prescribed in the last preceding section

Mode of  
 obtaining  
 land for the  
 purpose

The Government of Bengal may take possession, as for a public purpose,  
 of any land that may be necessary for the execution of any of the above-men-

[1] The word “the” in the preamble, which was repealed by the Repealing and Amending  
 Act, 1903 (1 of 1903), is omitted.

[2] The words “specified in the Regulations and Acts in the Schedule to this Act annexed,”  
 which were repealed by the same Act, are omitted.

[3] The rest of section 2, which was repealed by the same Act, is omitted.

of 1864.]

## THE CANALS ACT, 1864

(Secs. 4-9)

1 of 1894.

tioned works, under the provisions of \* \* \* \* [1]  
any \* [2] Act \* \* \* [3] in force for the taking  
possession of land for public purposes [4]

4 No action or suit shall be brought against the Secretary of State for India in Council, or the Government, in respect of any injury or damage caused by, or resulting from, any act done under the last preceding section. Bar of suit against Government

5. Tolls at such rates as shall be fixed in manner hereinafter mentioned shall be paid in respect of all vessels entering upon, or passing along, any of the lines of navigation subject to the provisions of this Act Tolls to be paid on lines of navigation subject to Act

Provided that such tolls shall be payable only so long as such line of navigation shall be open. Proviso

6 The Lieutenant Governor of Bengal may fix, and from time to time alter, the rates at which such tolls shall be levied Lieutenant-Governor may fix and alter rates of tolls.

Provided that no toll shall be levied, and no alteration of any rate of toll shall have effect, until notice shall have been published in the Calcutta Gazette, for such period as the said Lieutenant-Governor may fix, of the intention to levy or alter such tolls, and of the rate or place at which such toll is to be levied

7 Notification of the rates of toll and of the places of collection shall be at all times exhibited to public view at every toll-house where toll is levied under this Act, in the English, Urdu and Bengali languages. Publication of rates of toll at every toll house

8 The Lieutenant Governor of Bengal shall appoint such persons [5] as he may think fit to collect tolls under this Act, and it shall be lawful for any person so appointed to farm [6] the collection of tolls to any other person, with the sanction of the Government of Bengal, or to employ any other person in such collection Lieutenant-Governor to appoint persons to collect tolls, who may farm collection

The person to whom the collection of tolls may be farmed out, or who may be employed in the collection of them, shall have power to collect, and be authorized to receive them, in the like manner as any person appointed as aforesaid.

9 If any toll due under the provisions of this Act in respect of any vessel shall not be paid on demand to the person authorized to collect the same, it Payment of tolls how enforced.

[1] The words and figures "Act 6 of 1867 (for the acquisition of land for public purposes) or of," in s. 3, which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted

[2] The word "other," in s. 3, which was repealed by the same Act, is omitted

[3] The words "that may now or hereafter be," in s. 3, which were repealed by the same Act, are omitted

[4] See now the Land Acquisition Act, 1894 (1 of 1894), printed in the General Acts, 1891 to 1898, Ed 1899, p. 100

[5] As to the collection of tolls by Municipal Commissioners, see note on p. 89, ante

[6] As to the recovery of sums due from a farmer or his surety, see the Public Demands Recovery Act, 1895 (Ben. Act 1 of 1895), s. 7 (f), in Vol IV of this Code

(Secs 10, 11)

shall be lawful for such person to seize such vessel, and any furniture thereof, and to detain the same,

and such person shall, within twenty-four hours of such seizure and detention, report the same to the nearest Collector [1] or Deputy Collector of the district in which the seizure has been made, or other public officer duly authorized by Government in that behalf,

and on receipt of this report the Collector [1], Deputy Collector or other officer as aforesaid shall publish a notice appointing a day for the sale of the said vessel and any furniture thereof

The sale shall be held at some period not less than fifteen days from the date of the publication of notice of sale, and if the toll and also any expenses occasioned by non-payment be not paid, or sufficient cause for non-payment be not shown, at or before the time of sale to the Collector [1], Deputy Collector or other officer as aforesaid, such officer shall sell the vessel and furniture seized, or so much thereof as may be necessary to pay the toll and also any expenses occasioned by non-payment

So much of the property seized as may not have been sold, and so much of the sale proceeds as may be in excess of the sum necessary for satisfying the toll and for defraying the expenses occasioned by non-payment, shall be returned to the person in charge of the vessel

Penalty for  
evasion of  
toll

10. Any person who shall refuse or evade, or attempt to evade, any toll due under this Act shall be punished, on conviction before a Magistrate, with a fine which may extend to fifty rupees, or with simple imprisonment in lieu of fine which may extend to one month

Rules relating  
to lines of  
navigation

11 It shall be lawful for the Lieutenant-Governor of Bengal from time to time to make rules not repugnant to any law in force, and to repeal, alter and amend the same, for the management of any line of navigation subject to this Act, and for regulating the conduct of persons employed for any of the purposes of this Act, and the Lieutenant-Governor may affix fines as penalties for the infringement of such rules not exceeding fifty rupees for any one infringement, or five rupees a day for any continuing infringement

Such rules may contain directions for any of the following amongst other matters :—

for determining the tonnage of vessels and their measurement;

for fixing the number and the width of vessels to be allowed to pass into, or out of, or through, any line of navigation at one time or abreast,

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[1] As to the exercise of powers of Collector by Municipal Commissioners, see note on p 89, ante



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(Secs. 12-14.)

for determining the length of time during which vessels may remain stationary on any line of navigation and the amount of demurrage to be paid by vessels remaining stationary beyond such time ,

for regulating the mode in which and the places at which tolls are to be levied under this Act ,

for the removal of sunken vessels and obstructions , and

for the storing and disposal of the cargo of vessels seized under this Act

12 Rules shall not be passed until the same shall have been published in the Calcutta Gazette for a period of six weeks, and after that time the rules shall be published as passed, with such alterations (if any) as to the Lieutenant Governor of Bengal shall seem fit

Publication  
of such rules

The rules so published as passed shall not have effect until the expiration of two weeks after such last publication , and all rules so published shall, until the same be repealed or altered, be of like effect as if they were inserted in this Act.

Copies of all rules in the English, Urdu and Bengali languages shall be exhibited to public view at every place where toll is collected.

13 It shall be lawful for the Government of Bengal to appoint any person to be the supervisor of any line of navigation subject to the provisions of this Act , and such person shall be empowered to cut down and remove any tree which may have fallen or may be likely to fall into such line of navigation, and to remove any sunken vessel, and to prevent or remove any other nuisance or obstruction to navigation, of whatever description, whenever he may think it necessary

Appointment  
of supervisor  
with power to  
remove  
obstructions

14 Whenever such supervisor shall consider that the cutting down and removal of any tree or the removal of any other obstruction is necessary he may in cases of emergency at once remove the same, and may for that purpose enter on any private property

Mode of exer-  
cising such  
power.

In cases not of an emergent nature, he shall serve a notice in writing on the owner or occupier of such private property, directing him to remove the same within a reasonable time.

If the owner or occupier cannot be found, notice may be served by notification to be affixed in some conspicuous place in the nearest village.

If the owner or occupier shall not remove the obstruction within the time given in the notice, the supervisor may proceed to remove it himself and may for that purpose enter on any private property.

Payment of all expenses of such removal may be enforced by the sale of the thing removed in the manner provided for the recovery of tolls in section 9 of this Act

Supervisor  
may forbid  
construction  
of bandels,  
etc

15 Whenever in the opinion of such supervisor the construction of any bandel or other contrivance for fishing, or for any other purpose, in any line of navigation is likely to cause obstruction to the free and safe transit of such line of navigation, he may, by a notice in writing to be served on the owner or person in charge of such bandel or other contrivance, or (if such owner or other person cannot be found) to be affixed at some conspicuous place in the nearest village, forbid the construction of such bandel or other contrivance

Penalty for  
causing ob-  
struction to  
line of navi-  
gation

16 Any person who shall wilfully cause or shall aid in causing any obstruction to any line of navigation, or any damage to the banks or works of such line of navigation, or who shall wilfully omit to remove such obstruction after being lawfully required so to do, shall be punished on conviction before a Magistrate with simple imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both, and shall also be liable to pay such fine as may be sufficient to meet all reasonable expenses incurred in abating or removing such obstruction, or in repairing such damage

17 [*Recovery of fines.*] *Rep. by the Repealing and Amending Act, 1903 (1 of 1903)*

Offences by  
whom punish-  
able

18 If any person shall be guilty of an offence against the provisions of this Act on any line of navigation subject to this Act, such offence shall be punishable by any Magistrate having jurisdiction over any district or place adjoining such line of navigation, or adjoining either side of that part of the line of navigation in which such offence shall be committed,

and such Magistrate may exercise all the powers of a Magistrate under this Act, in the same manner, and to the same extent, as if such offence had been committed locally within the limits of his jurisdiction, notwithstanding the offence may not have been committed locally within such limits,

and, in case any such Magistrate shall exercise the jurisdiction hereby vested in him, the offence shall be deemed, for all purposes, to have been committed locally within the limits of his jurisdiction.

19. [*Indemnity for certain acts done heretofore in the collection of tolls, etc.*] *Rep. by the Repealing Act, 1873 (12 of 1873).*

20. This Act may be cited as the Canals Act, 1864.

Short title

[*Schedule of Regulations and Acts repealed.*] *Rep. by the Repealing and Amending Act, 1903 (1 of 1903).*

# CESSES (ROAD AND PUBLIC WORKS)

• Ben Act 9 of 1830	•	the Cess Act, 1880
Act 7 of 1881	• •	the Bengal Cess (Amendment No 1) Act, 1881
Ben Act 2 of 1881	,	the Bengal Cess (Amendment No 2) Act, 1881

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## THE CESS ACT, 1880

(BENGAL ACT 9 OF 1880)

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SCHEDULES—Forms

---

(Preamble)

THE CESS ACT, 1880<sup>1</sup>

(BENGAL ACT 9 OF 1880) [1]

[13th October, 1880]

An Act to amend and consolidate the Law relating to Rating for the Construction, Charges and Maintenance of District Communications and other Works of Public Utility, and of Provincial Public Works

Preamble

WHEREAS it is expedient to amend and consolidate the law relating to rating for the construction, charges and maintenance of district roads and other

[1] LEGISLATIVE PAPERS—For Proceedings in Council, *see* Calcutta Gazette, Supplement, 1879, p 1508, Supplement, 1880, pp 45, 291, 323, 379, 406 and 948

LOCAL EXTENT—This Act took effect in several districts and parts of districts from its commencement and the Lieutenant Governor is empowered to extend it to any other district or part of a district in Bengal (*see* section 2). But the Act does not affect immoveable property in Calcutta or in certain Provincial Municipalities (*see ibid.*), and the Lieutenant Governor is empowered to exempt any district or part of a district, or any estate or tenure, from the operation of the Act or from the operation of so much of the Act as relates to the road cess or the public works cess (*see ibid.*)

The Act has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s 3, to be in force in the following Scheduled Districts, namely—

the Hazaribagh, Ranchi, Palamau and Manbhum Districts, and Pargana Dhalbhum in the Singhbhum District, in the Chota Nagpur Division—*see* Vol V, Part VB (b)

The Act is in force in certain notified tracts in the Sonthal Parganas—*see* Vol V, Part VI B (c), but its operation in the other de-regulationised tracts in Bengal is barred as follows—

in the Angul District, by the Angul District Regulation 1894 (1 of 1894), s 3 (2), *post*, in the Chittagong Hill tracts, by the Chittagong Hill tracts Regulation, 1900 (1 of 1900), s 4 (2), *post*, and

in unnotified tracts in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s 3, *post*

The Act is now in force in all districts except Angul and the Chittagong Hill tracts, but in the Singhbhum District it is in force only in Pargana Dhalbhum and the Porahat Estate, and in the Sonthal Parganas it is in force only in the notified tracts referred to above—*see* Correction Slip No 20 of February, 1904, to the Cess Manual, 1880

LOCAL REPEALS AND AMENDMENTS—Section 2 of the Bengal Local Self Government Act of 1885 (Ben Act 3 of 1885, printed in Vol II of this Code) repeals and amends a number of sections (indicated *post*) of the present Act in districts in which the former Act has come into force. The Act of 1885 is in force in all districts in which the present Act is in force, except the Darjeeling and Singhbhum districts and the Sonthal Parganas. It is intended to bring the Act of 1885 into force in the Singhbhum District—*see* para 1 (1) of the "Notes on Clauses" appended to the Bengal Local Self-Government (Amendment) Bill, 1904, published in the Calcutta Gazette, 1904, Pt IV, p 42

REPRINTS, RULES AND ORDERS—For an annotated reprint of this Act with rules made by the Board of Revenue under section 106, circulars issued and forms prescribed by the Board, and notes of cases decided by the High Court and of rulings by the Board, *see* the Cess Manual, 1900

A reprint of the Act, as modified up to the 1st April, 1904, has been published by the Legislative Department of the Government of Bengal

A reprint of the Act is also published in the Irrigation Manual, 1897, Vol II, pp 230 to 260

For rules by the Board of Revenue for the collection of, and accounting for, Road and Public Works Cesses, *see* the Tanzi Manual, 1899

For orders as to the preparation, by Commissioners of Divisions, of annual reports as to Road and Public Works Cesses, *see* the Register and Return Manual, 1902, p. 40

As to the inspection of work connected with the Road Cess, *see* the Inspection Manual,

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THE CESS ACT, 1880

(Preliminary — Secs 1, 2)

means of communication, and of provincial public works, within the territories administered by the Lieutenant-Governor of Bengal, and to the levy of a road cess and a public works cess on immoveable property situate therein, and to the constitution of local committees for the management of the proceeds of the said road cess, and also to provide for the construction and maintenance of other works of public utility out of the proceeds of the said road cess, It is hereby enacted as follows —

## PRELIMINARY

1 This Act may be called the Cess Act, 1880.

[Commencement] Rep by the Repealing and Amending Act, 1903 Short title (1 of 1903)

2 This Act shall take effect at once in every district and part of a district in which Bengal Act 10 of 1871<sup>[2]</sup> (*an Act to provide for local rating for the construction and maintenance of roads and other means of communication*) and Bengal Act 2 of 1877<sup>[2]</sup> (*an Act to provide for the levy of a cess for the construction, charges and maintenance of provincial public works*) may be in force on the date of the commencement of this Act

The Lieutenant-Governor may, by notification in the Calcutta Gazette, extend its provisions to any other district or part of a district<sup>[3]</sup> situate in the territories for the time being administered by him, and this Act shall take effect accordingly therein from the date specified in such notification

Provided that nothing herein contained shall be deemed to affect any immoveable property within the limits of the ordinary original jurisdiction of

1902, pp 29 to 36

For a list of rules and orders made under this Act, see the Bengal Local Statutory Rules and Orders, 1898, Vol I, p 109

AMALGAMATION OF CESSES — The rate imposed under the Bengal Sanitary Drainage Act, 1895 (Ben Act 8 of 1895), is collected with the Road Cess imposed under the present Act—see ss 21 and 22 of the Act of 1895, *post*

[1] These districts are—

BHAGALPUR DIVISION—

Bhagalpur, Malda, Monghyr and Purnea

BURDWAN DIVISION—

Bankura, Bubburn, Burdwan, Hooghly (including Howrah) and Midnapur

CHITTAGONG DIVISION—

Chittagong, Noakhali and Tippera

CHOTA NAGPUR DIVISION—

Hazaribagh, Manbhum, Palamau and Ranchi.

DACCA DIVISION—

Backergunge, Dacca, Faridpur and Mymensingh.

ORISSA DIVISION—

Balasore, Cuttack and Puri

PATNA DIVISION—

Champaran, Darbhanga, Gaya, Muzaffarpur, Patna, Saran and Shahabad

PRESIDENCY DIVISION—

Jessore, Khulna (this district was, in 1880, part of the Jessore and 24 Parganas Districts), Murshidabad, Nadia and 24 Parganas

RAJSHAH DIVISION—

Bogra, Darjeeling, Dinajpur, Jalpaiguri, Fahnna, Rajshahi and Rangpur

[2] Ben Acts 10 of 1871 and 2 of 1877 have been repealed by s. 3 of this Act

[3] This Act has been extended, under s. 2, para. 2, to Pargana Dhalbhum, in the district of Singhbhum (see Calcutta Gazette, 1883, Pt. I, p. 803) and to the Porabat Estate, in the same district (see *ibid.*, p. 98). It had previously been declared in force in Pargana Dhalbhum by notification under the Scheduled Districts Act, 1874 (14 of 1874)—see note [1] on the preceding page.

(Preliminary — Secs 3, 4)

the High Court of Judicature at Fort William in Bengal, or within the limits of any first or second class municipality under the Bengal Municipal Act, 1876 [1] Ben Act 5 of 1876

Power to exempt districts from operation of Act

The Lieutenant-Governor may, by notification in the Calcutta Gazette, exempt [2] any district or part of a district, or any estate or tenure, from the operation of this Act, or from the operation of so much thereof as relates to the road cess, or as relates to the public works cess, and may at any time, by a similar notification, revoke such exemption

Repeal of District Road Cess Act, 1871, and Provincial Public Works Act, 1877

3 The said Bengal Act 10 of 1871 and the said Bengal Act 2 of 1877 are hereby repealed, but this repeal shall not affect the past operation of such Acts or anything duly done or suffered, or any right, privilege, obligation or liability acquired, accrued or incurred thereunder,

and all rules, orders, appointments and valuations in force at the commencement of this Act which were made under the said Acts shall, so far as they are consistent with this Act, be deemed to have been made under this Act,

and all cesses which were imposed under the said Acts shall be deemed to have been imposed under this Act, and every sum due to the Collector in respect of arrears of cess, of expenses incurred, of fees or costs payable, of notices served or of fines imposed under either of the said Acts shall be deemed to be due on such accounts under this Act,

and all cesses so imposed and every sum so due may be levied as herein provided

Interpretation clause

4 In this Act, unless there be something repugnant in the subject or context,—

“Annual value of land,” etc

“annual value of any land, estate or tenure” means the total revenue or rent which is payable, or, if no revenue or rent is actually payable, would on a reasonable assessment be payable, during the year by all the cultivating raiyats of such land, estate or tenure, or by other persons in the actual use and occupation thereof

“Commissioner”

“Commissioner” means the Commissioner of the division

“Cultivating raiyat”:

“cultivating raiyat” means a person cultivating land and paying rent therefor not exceeding one hundred rupees *per annum*

[1] Ben. Act 5 of 1876 has been repealed and re-enacted by the Bengal Municipal Act, 1884 (Ben Act 3 of 1884, printed in Vol III of this Code), and the reference in the text should now, in accordance with section 2 of the latter Act (as amended by Ben Act 4 of 1894, s 2), be taken to be made to that Act

[2] For exemptions, see the Cess Manual 1930, pp 77 and 78, and the Bengal Local Statutory Rules and Orders 1903, Vol. II, p 67.

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THE CESS ACT, 1880

(Preliminary — Sec 4)

*Explanation* — When rent is payable in kind, the money value thereof shall, for the purposes of this Act, be taken to be the annual value of the landlord's share of the crop calculated on an average of the three years next preceding any valuation or re-valuation under this Act

"district" means the local area to which a Collector is appointed, and no lands situate beyond the limits of such local area shall be deemed to form part of a district by reason of their forming part of an estate paying revenue to the Collector thereof

[1] "estate" means—

"Estate"

(1) land included under one entry in the general registers of revenue-paying lands and of revenue-free lands prepared and maintained by the Collector of a district under the Land Registration Act, 1876,[1] or any similar law for the time being in force,

(2) any land, other than the holding of a cultivating raiyat, the revenue or rent of which may be payable directly to the Collector or any person specially appointed by him to collect the same,

(3) any land acquired under any rules issued by, or under authority of, Government for the sale, grant, lease or clearance of waste-lands

"holder of an estate or tenure" means all or any of the holders thereof, and, where two or more persons are jointly holders thereof, they shall be jointly and severally liable under this Act

"Holder of an estate or tenure"

"holding" means the land held by a cultivating raiyat

"Holding"

"immoveable property" includes lands and all benefits to arise out of land and things attached to the earth, or permanently fastened to anything which is attached to the earth, but does not include crops of any kind, or houses, shops or other buildings

"Immoveable property"

"land" means land which is cultivated, uncultivated or covered with water, and does not include houses or buildings

"Land"

"Part," "Chapter" and "section" mean respectively a Part, Chapter and section of this Act:

"Part,"  
"Chapter"  
and "sec-  
tion"  
"Schedule"

"Schedule" means a schedule to this Act annexed, and every such schedule shall be read as part of this Act :

"Tenure"

[2] "tenure" includes every interest in land, whether rent-paying or not save and except an estate as above defined, and save and except the interest of a cultivating raiyat :

[1] Printed in Vol. IV of this Code

[2] For power to direct that certain land shall be deemed to be a "tenure" and not an "estate," see s 40 A, post p 120

(Part I—Chapter I—Imposition and Application of the Cesses—Secs 5, 6

“The Collector”

“the Collector” includes any person specially invested with the powers of a Collector for the purposes of this Act, and means—

1—when used in reference to revenue paying estates and lands comprised therein, to all proceedings connected therewith and to the assessment and levy of cesses in respect thereof,

the Collector or other similar officer on whose revenue roll such estates are borne,

2—when used in reference to revenue free estates and lands comprised therein, to all proceedings connected therewith and to the assessment and levy of cesses in respect thereof,

the Collector or other similar officer on whose general register of revenue-free lands such estates are borne

“The Collector of the district”

“the Collector of the district” includes any person specially invested with the powers of a Collector for the purposes of this Act, and means the officer in charge of the revenue administration of a district

“The Committee”  
“Year”

[1] “the committee” means the district road committee of any district

“year” means the cess year as determined by the Lieutenant-Governor under section 11

## PART I

### CHAPTER I

#### IMPOSITION AND APPLICATION OF THE CASSES

All immoveable property to be liable to a road cess and public works cess

5. From and after the commencement of this Act in any district or part of a district, all immoveable property situate therein, except as otherwise in sections 2 and 8 provided, shall be liable to the payment of a road cess and a public works cess

Cesses how to be assessed.

6. The road cess and the public works cess shall be assessed on the annual value of lands and on the annual net profits from mines, quarries, tramways,

[1] In districts in which the Bengal Local Self-Government Act of 1885 (Ben Act 3 of 1885) is in force, the following has been substituted for the definition of “the committee” (see s 2 and Sch. II of that Act, in Vol. II of this Code) —

“District Board” means the Board constituted under the provisions of the Bengal Local Self Government Act of 1885:

“District Fund” means the fund formed under section 52 of the Bengal Local Self Government Act of 1885.”

“District Board”  
“District Fund”



of 1880 ]

THE CESS ACT, 1880

(Part I—Chapter I—Imposition and Application of the Cesses—Secs 7-10)

railways and other immoveable property ascertained respectively as in this Act prescribed,

and the rates at which such cesses respectively shall be levied for each year shall be determined for such year in the manner in this Act prescribed

Provided that the rate at which each such cess shall be levied for any one year shall not exceed the rate of one-half anna on each rupee of such annual value and annual net profits respectively

7 Nothing in this Act contained shall be deemed to require the payment by the Lieutenant-Governor of Bengal, from the public revenues, of any sum as road cess in excess of such sums as may have been paid as such cess to the Collector by persons liable to pay the same

Public revenues not liable for more road cess than has been paid to Collector by persons liable Government and guaranteed railways not liable to the cesses without consent of Governor General in Council

8 No railway or tramway, the property of the Government of India, and no railway or tramway of which the dividend is guaranteed by Her Majesty's Secretary of State for India in Council, or by the Governor General of India in Council, or by the Lieutenant-Governor of Bengal, shall be liable to road cess or public works cess under the provisions of this Act without the previous consent of the Governor General of India in Council.

9 The proceeds of the road cess in each district shall be paid into the district road fund of such district, as hereinafter provided, and, together with other assets of such fund, shall be applied to the purposes mentioned in section 109 [1]

Application of proceeds of road cess

10 The proceeds of the public works cess [2] [and all interest paid thereon] shall be paid into the public treasury, and shall be applied (1) to the payment of such contributions to the district road fund as the Lieutenant-Governor may think proper in consideration of the said cess being assessed and collected jointly with the road cess by establishments paid from the district road fund, and (2) to the construction charges and maintenance of provincial public works, and to the payment of interest on capital which may have been expended, or which may hereafter be expended, on such works in such manner as the Lieutenant-Governor may direct.

Application of proceeds of public works cess

[1] The figures "109" in s. 9 were substituted for the figures "111" by Ben. Act 2 of 1881, s. 1, printed *post*, p. 171.

The words and figures which are printed in italics are repealed in districts in which the Bengal Local Self-Government Act of 1885 (Ben. Act 3 of 1885) is in force—see s. 2 and Sch. II of that Act, in Vol. II of this Code.

[2] These words in square brackets in s. 10 were inserted by Ben. Act 2 of 1881, s. 2, printed *post*, p. 171.

(*Part I—Chapter I—Imposition and Application of the Cesses.—*  
*Part II—Mode of Assessment—Chapter II,—Valuation of Lands—Secs*  
*11 13* )

Power to fix  
cess year

11 The Lieutenant-Governor shall, by an order published in the Calcutta Gazette, fix the date from which the cesses leviable under this Act in any district or part of a district shall take effect therein, and may fix and from time to time alter the date from which the cess year shall run in any district or part thereof

## PART II MODE OF ASSESSMENT

### CHAPTER II

#### VALUATION OF LANDS.

Lieutenant  
Governor may  
order valua-  
tion,

12 Upon the commencement of this Act in any district or part of a district the Lieutenant-Governor may order that a valuation shall be made of such district or part of a district,

and re valua-  
tion

and from time to time after the expiration of the term of five years from the beginning of the year in which the levy of the cesses took effect in accordance with any such valuation, or with any re valuation as hereafter provided in this section, or at any time within twelve months previous to the expiration of such term,

the Lieutenant-Governor may, if he think fit, order that a re-valuation shall be made of any such district or part of a district, and such re-valuation shall take effect from the beginning of such year as the Lieutenant-Governor may direct

After five  
years holder  
of estate or  
tenure may  
apply to  
Collector for  
re-valuation.

13. Whenever the term of five years shall have expired from the beginning of the year in which the levy of the cesses took effect in any estate or tenure in accordance with any valuation [1] [or re-valuation] under this Act or Bengal Act 10 of 1871, [2] the holder of any such estate or tenure may apply to the Collector to re-value his estate or tenure, and for such purpose shall lodge in the office of the Collector returns in the form in Schedule A contained; and thereupon the Collector shall proceed to re-value such estate or tenure, and, if he make any alteration in the valuation of any such tenure, shall give notice of such alteration to the holder of the estate or superior tenure in which

[1] These words in square brackets in s. 13 were inserted by Ben Act 2 of 1881, s. 3, printed post, p. 171

[2] Ben. Act 10 of 1871 has been repealed by this Act—see s. 3, ante, p. 106.

of 1880 ]

THE CESS ACT, 1880.

*(Part II — Mode of Assessment — Chapter II — Valuation of Lands —  
Secs 14-16 )*

such tenure is included, and shall alter the valuation of such estate or superior tenure accordingly

Provided that no re-valuation or reduction of the amount of cesses previously payable in respect of any estate or tenure, in consequence of a re-valuation under this section, shall take effect until the beginning of the year commencing next after such re-valuation, unless the application for re-valuation shall have been made and the necessary returns lodged in the Collector's office within three months after the beginning of a year, in which case such re-valuation and reduction, if any, shall take effect from the commencement of such year

14 Whenever the Lieutenant-Governor has ordered that a valuation or a re-valuation of any district or part of a district shall be made for the purposes of this Act, the Collector of the district shall cause a proclamation to be issued requiring every holder of an estate or tenure which is liable to pay an annual amount of revenue or an annual amount of rent exceeding one hundred rupees and every holder of a revenue-free estate or rent-free tenure the gross annual rental of which exceeds one hundred rupees, severally to lodge at the office of such Collector within one month a return of all lands comprised in his estate or tenure in the form in Schedule A contained, giving the particulars, in such form set forth

Proclamation to make return of lands to be issued

The Collector of the district shall cause such proclamation to be published by affixing a copy thereof in some conspicuous place in the office of such Collector, in every Civil Court, in every police-station, and in the office of every Sub divisional Officer within the district, and in any other manner which the Lieutenant-Governor may from time to time direct.

Publication of proclamation.

15. At any time at which the Lieutenant-Governor might order a re-valuation of a district or part of a district to be made as provided by section 12, he may, if he think fit, instead of so ordering, make an order that particular estates or tenures only in such district or part of a district shall be re-valued.

Re-valuation may be of particular estates or tenures only.

16 Whenever any proclamation has been published, as mentioned in section 14, in any district, and whenever the Lieutenant-Governor has made an order, under the last preceding section, that a re-valuation of particular estates and tenures only shall be made, the Collector shall cause a notice to be served in respect of every estate and tenure which is to be valued or re-valued and in respect of which no return shall have been lodged in accordance with the requirement of such proclamation, requiring every holder of such estate

Notice to lodge returns.

(Part II — Mode of Assessment — Chapter II — Valuation of Lands —  
*Secs 17, 18* )

or tenure severally to lodge at the office of the Collector the return mentioned in section 14,

and shall also cause a similar notice to be served in respect of every tenure included in any such estate or tenure which may have been named in any return lodged in pursuance of the provisions of this Act, or of Bengal Act 10 of 1871,[1] either for the purposes of the valuation or re-valuation then contemplated, or for the purposes of any previous valuation or re-valuation, or of which the existence may in any other way have come to his knowledge

17 The notice mentioned in the last preceding section shall be in the form No I in Schedule B contained, or in the Form No II in the said Schedule contained, as the case may be, and shall require every holder of the estate or tenure severally to lodge the return within the time specified below, namely —

*In the case of Revenue paying Estates and Rent paying Tenures*

If the return relate to an estate or tenure which is liable to the payment of annual revenue or of rent not exceeding Rs 500, or to any share or interest in such estate or tenure

Within six weeks of the service of the notice

If the return relate to any other estate or tenure, or to any share or interest therein

Within three months of the service of the notice

*In the case of Revenue free Estates and Rent-free Tenures*

If the return relate to any estate or tenure of which the gross annual rental does not exceed Rs 500, or to any share or interest in such estate or tenure

Within six weeks of the service of the notice.

If the return relate to any other estate or tenure, or to any share or interest therein

Within three months of the service of the notice

The Collector may in his discretion extend the time allowed for lodging any such return.

18. All holders of estates or tenures in respect of which such notice has been served who shall, without sufficient cause being shown to the satisfaction of the Collector, refuse or omit to lodge the required return in the office of such Collector within the time allowed by such notice in respect of the estate or tenure which they hold, or within any extended time which may have been allowed by the Collector for lodging such return, shall be severally liable to

[1] Ben. Act 10 of 1871 has been repealed by this Act—see s. 3, ante, p. 106.

Form of  
notice and  
time for  
lodging  
returns

Penalty for  
omitting to  
make return.

of 1880 ]

THE CESS ACT, 1880

(Part II — Mode of Assessment — Chapter II — Valuation of Lands —  
Secs 19, 20 )

a fine which may extend to fifty rupees for every day after the expiration of such time or extended time until such return is furnished, or until the value of the lands comprised in their respective estates and tenures shall have been otherwise ascertained and determined by the Collector as hereinafter provided.

The amount of such fine accruing due from time to time may be levied by the Collector as provided in section 98 or 99, and the fact of an appeal against such fine being pending shall not avail to prevent the levy of any such fine pending the disposal of the appeal, unless the Commissioner shall otherwise direct

Whenever the amount levied in respect of any such fine exceeds five hundred rupees, the Collector shall report the case specially to the Commissioner, and no further levy for such default shall be made otherwise than by authority of the Commissioner

19 From and after the expiry of the time allowed by the notice, or of any extended time under the provisions of section 17, every holder of an estate or tenure in respect of which such notice has been served shall be precluded from suing for or recovering rent for any land or tenure situate in any estate or tenure in respect of which no return has been lodged as aforesaid

No rent to be recovered till return is made

The Collector may send a list to the Civil Court of all such holders so making default in lodging returns as aforesaid, and such Court shall take judicial notice of the same

Whenever the required return is lodged in respect of any estate or tenure or whenever the valuation of any such estate or tenure has been otherwise completed, the disability imposed on the holder thereof by this section shall cease, and, if such estate or tenure shall have been included in any list as aforesaid, the Collector shall forthwith give notice to the Civil Court of the cessation of such disability.

20. Every holder of an estate or tenure in respect of which a return has been made as required by this Chapter shall be precluded from suing for or recovering—

No rent to be recovered for land, etc, not mentioned in return.

- (a) any rent whatsoever for any land, holding or tenure forming part of the estate or tenure to which such return relates, but which has not been mentioned in such return, unless it be proved that the holding or tenure for the rent of which the rent is claimed was created subsequently to the lodging of such return ;
- (b) rent at any higher rate than is mentioned in such return for any land, holding or tenure included in such return, unless it be proved that

*(Part II—Mode of Assessment—Chapter II—Valuation of Lands—  
Secs 21-23)*

the rent of such land or tenure has been lawfully enhanced subsequently to the lodging of such return

PROVISO

Provided that the Collector may at his discretion, at any time within six months from the presentation of any return made under this Part, receive a petition correcting any such return,

and on the acceptance of such petition may make such correction in the valuation of the estate or tenure as may be required,

and, as soon as the person in respect of whose estate or tenure the return and valuation have been so corrected shall have paid in all sums due by him as road cess and public works cess in accordance with such corrected valuation and not otherwise, such person may recover such rent as may be due to him on any tenure or land included in the return of such estate or tenure at any rate not being in excess of the rate shown in the corrected return as payable in respect of such tenure or land

Such notices as the Collector may direct shall be served upon the parties affected by such petition at the expense of the person lodging the return as aforesaid

If returns not furnished, Collector to make valuation

21. If no return shall have been lodged in respect of any lands for which notice under section 16 has been issued, the Collector may, after the expiration of the time allowed by the notice, or of such extended time as is mentioned in section 17, ascertain and fix, by such ways and means as to him shall seem expedient, the annual value of any estate, tenure or lands mentioned in such notice, and all expenses incurred in making such valuation may be recovered with all costs of recovery thereof as provided in sections 98 and 99

After conviction of making false returns, Collector may make valuation

22 Whenever the maker of any return under this Act has been convicted on a prosecution under section 94 of making a false return relating to any lands, the Collector may, by such ways and means as to him shall seem expedient, ascertain and fix the annual value of such lands,

and the expense of such valuation may be recovered from the maker of such return as provided in sections 98 and 99

In certain cases of incorrect returns, Collector to make valuation whether prosecution be instituted or not

23. Whenever the Collector may deem that any return lodged relating to lands for which no rent is payable by cultivating riyats to the person making such return is untrue or incorrect, he may, whether any prosecution as mentioned in section 94 shall have been instituted or not, by such ways and means as to him shall seem expedient, ascertain and fix the annual value of such lands; and, in case the annual value of such lands so determined by him shall exceed by one-fifth the value stated in such return, the expense of such

of 1880.]

THE CESS ACT, 1880

(Part II — Mode of Assessment — Chapter II — Valuation of Lands. —  
Secs 24-27).

valuation may be recovered from the person by whom such return was lodged, as provided in sections 98 and 99, and in all other cases the said expense shall be borne by the district road fund

24 The Collector may, whenever he may think fit, cause a notice in the form No I in Schedule B contained to be served on any person holding any lands or possessing any interest therein, although such person may have been mentioned in any return as a cultivating raiyat, and thereupon such person shall be bound to make a return of the annual value of such lands within one month from the service of such notice in the form in Schedule A contained, and the provisions of sections 17 and 18 regarding extension of time for lodging a return and regarding fines respectively shall be applicable to such person.

Person is  
turned as cul-  
tivating raiyat  
may be served  
with notice

25 If no return is made by any person on whom a notice has been served as provided in the last preceding section, the Collector may proceed, by such ways and means as to him shall seem expedient, to ascertain the annual value of the lands held by such person, and, in case it appears that such annual value is greater than the rent paid by such person, the expense of such valuation shall be borne by such person and may be recovered with all costs of recovery thereof as provided in sections 98 and 99, but in all other cases shall be borne by the district road fund

If no return  
made, Collector  
or may ascertain  
annual  
value of lands

26. If it shall appear to the Collector that any person on whom a notice has been served under section 24 has been wrongly classed in the return as a cultivating raiyat, the Collector may direct that the entry be corrected and that such person be classed as a tenure-holder,

Collector may  
correct classifica-  
tion in  
returns

and thereupon such person shall be deemed to be a tenure-holder for the purposes of the assessment and levy of the cesses in respect of the lands held by him

27. Whenever the revenue annually payable in respect of any estate, or the rent annually payable in respect of any tenure, does not exceed the sum of one hundred rupees, the Collector may, without issuing any notice for such estate or tenure, —

Summary  
valuation of  
small revenue-  
paying estates  
and tenures.

(a) in any case determine the annual value of the land comprised therein to be in a permanently-settled estate or tenure a sum not exceeding three times, and in a temporarily-settled estate or tenure a sum not exceeding twice, the amount of the annual revenue or rent payable therefor: or.

(Part II—Mode of Assessment—Chapter II—Valuation of Lands—  
Secs 28, 29)

- (b) when the area of the said estate or tenure has been ascertained, determine the annual value of such estate or tenure to be at such rate per acre as to him shall seem fit

Summary valuation of small revenue free estates and rent free tenures of which the area has been ascertained

28. When the area of any revenue free estates or rent-free tenure, the gross rental of which does not exceed, or is not estimated by the Collector to exceed, the sum of one hundred rupees, has been ascertained, the Collector may, without issuing any notice for such estate or tenure, determine the annual value of such estate or tenure to be at such rate per acre as to him may seem fit

Computation of annual value of land comprised in a subordinate tenure in a summarily valued estate or tenure

29 When the land contained in any estate or tenure has been summarily valued by the Collector in the manner provided by clause (a) of section 27, the annual value of any portion of such land which is comprised within a tenure subordinate to such estate or tenure shall be determined according to the following rules —

- (1) When the subordinate tenure comprises the whole of the estate or superior tenure, the annual value of the subordinate tenure shall be taken to be the same as that of the estate or superior tenure

*Example*—An estate paying a revenue of Rs 80 is summarily valued by the Collector under clause (a) of section 27 at Rs 200. The whole estate is let in patni for a rent of Rs 120. The annual value of the patni tenure will be Rs 200

- (2) When the subordinate tenure comprises a part only of the land constituting the estate or superior tenure—

- (a) the difference between the annual value of the estate or superior tenure, and the revenue or rent payable in respect of such estate or superior tenure, shall first be ascertained,
- (b) next, the ratio which such difference bears to such revenue or rent shall be ascertained,
- (c) then the amount which bears the same ratio to the rent payable in respect of the subordinate tenure shall be ascertained,
- (d) half of the amount so ascertained shall be added to the rent payable in respect of the subordinate tenure, and the result shall be taken to be the annual value of the subordinate tenure.

*Example A.*—An estate paying revenue of Rs 60 is summarily valued by the Collector under clause (a) of section 27 at Rs. 100. A part only of the estate is let in patni for a rent of Rs 37 8



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(Part II — Mode of Assessment — Chapter II. — Valuation of Lands —  
Secs 30-33 )

The difference between the annual value of the estate (Rs 100) and the revenue paid in respect of it (Rs 60) is Rs 40. This difference bears a ratio of two thirds to this revenue (Rs 60)

The amount which bears the same ratio (two thirds) to the rent payable in respect of the patni (Rs 37 8) is Rs 25

add half of Rs 25 to the rent payable in respect of the patni tenure, and the result (Rs 37 8 + Rs 12 8 =) Rs 50 will be the annual value of the patni tenure

*Example B* — Within the patni tenure paying a rent of Rs 37-8, as in Example A, is a darpatni tenure paying a rent of Rs 27

The difference between the annual value of the patni tenure ascertained as above (Rs 50) and the rent payable in respect of the patni (Rs 37-8) is Rs 12 8, which bears a [ratio] [1] of one third to the said rent

The amount which bears the same ratio (one third) to the rent payable in respect of the darpatni (Rs 27) is Rs 9,

add half of Rs 9 to the rent payable in respect of the darpatni, and the result (Rs 27 + Rs 4 8 =) Rs. 31-8 will be the annual value of the darpatni tenure

**30** When the land contained in any estate or tenure has been summarily valued according to a rate per acre, under clause (b) of section 27, or under section 28, the annual value of the land comprised in any subordinate tenure shall be taken at the same rate per acre as that of the estate or superior tenure.

When such land may be valued according to rate per acre

**31** The holder of any estate or tenure which has been summarily valued under section 27 or 28, may, within one month from the posting of the valuation-roll in respect thereof under section 35, lodge a return in the form in Schedule A contained in regard to such estate or tenure, and thereupon such return shall be deemed to be a return made as required by section 16 and shall be dealt with accordingly

Holder of summarily valued estate or tenure may lodge return

**32.** Instead of proceeding to value any estate or tenure summarily under the provisions of section 27 or 28, the Collector may, if he think fit, cause a notice to be served in respect of any such estate or tenure in the form No I in Schedule B contained, or in the form No. II in the said schedule contained, as the case may be, and thereupon all the provisions of this Part shall apply in the same way as they would have applied if the annual Government revenue or rent payable in respect of such estate or tenure had exceeded one hundred rupees.

Collector may value small estate or tenure by regular process

*Lands used for Tea, Coffee or Cinchona*

**33** In the case of lands acquired under any rules [2] is used by, or under the

Return of

[1] The word "ratio", in Example B, was substituted for the word "rate" by the Repealing and Amending Act, 1908 (1 of 1908), *ante*, p 18.

[2] For rules, see the Waste-lands Manual, 1898.

(Part II—Mode of Assessment—Chapter II—Valuation of Lands—  
Secs 34, 35)

plantations,  
etc

authority of, the Government for the sale, lease, grant or clearance of waste lands, or held directly from Government, and used for the cultivation of tea, coffee or cinchona, the Collector shall, in lieu of the notice prescribed by section 16, cause a notice to be served calling on the holder of such lands to lodge, within two months of the service of such notice, a return in the form in Schedule C contained, giving the particulars in such form set forth, and the annual value of such lands shall be fixed at ten rupees in respect of every acre therein entered as cultivated, unless the Board of Revenue shall in any particular case prescribe a lower rate. The provisions of sections 18 and 21 shall apply to all lands in respect of which a notice has been issued under this section.

*Publication of Valuation-rolls and Duration of Valuations*

Valuation  
rolls to be  
prepared

34 Whenever any valuation or re-valuation is made under this Part, the Collector shall cause to be prepared from the returns furnished to him and from the valuations made by him in accordance with this Act a valuation-roll of each estate within his district and of the tenures therein comprised, noting thereon for each estate the amount of revenue annually payable to Government on which the deduction specified in section 41 is to be calculated.

On the application of any holder of an estate or tenure or holding, and on payment of such copying fee as the Board of Revenue shall from time to time determine, the Collector shall cause to be furnished to such holder a copy or corrected copy of so much of any such returns, and of any such roll, as relates to the lands included within his estate, tenure or holding.

Publication  
of rolls

35. On the completion of every roll prescribed under this Part, the Collector shall cause a copy thereof to be posted up at the mal-cutcherry of the estate to which such roll refers, and shall cause extracts of such portions of any such roll as refer to any tenure to be posted up at the mal-cutcherry of such tenure.

Provided that, if no such mal-cutcherry be found, such roll and such extracts shall be posted up at some conspicuous places on the estate and tenures respectively to which they refer, and that, if such estate or tenure cannot be found, such roll and such extracts shall be posted at some conspicuous place in any village in which such estate or tenure is believed to be situate.

To be attested  
by two per-  
sons

The person who is entrusted with the publication of any such return shall obtain an acknowledgment in writing signed by two persons who may be either respectable residents of the neighbourhood, or chaukidars, or other

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## THE CESS ACT, 1880

(Part II—Mode of Assessment—Chapter II—Valuation of Lands—  
Chapter III—Rating and Levy of the Cesses—Secs 36 39)

officers of Government, to the effect that such return was duly published on the spot, and shall give in such acknowledgment to the Collector

36 Except as otherwise in this Part expressly provided, every valuation and re-valuation made under this Chapter shall remain in force for the term of five years from the date fixed by the Lieutenant-Governor under section 12 as the date from which the cess leviable in pursuance thereof shall take effect, and thereafter, until another re-valuation and assessment in substitution thereof shall have been ordered and completed

Valuation and re valuation to be in force for five years

37 Nothing in section 36 contained shall be held to debar the Collector, with the sanction of the Board of Revenue, from making at any time any reduction which he may think fit in the valuation of any estate or tenure,

Collector may reduce valuation,

or from making a valuation of and assessing and levying cess under the rules laid down in this Part upon any estate or tenure which for any reason whatever has been omitted from the valuations and assessments for the time being in force, or which was not in existence when such valuation or assessment was made

and may value and assess omitted and newly found estates and tenures

## CHAPTER III

## RATING AND LEVY OF THE CESSES.

[1] 38. The road cess for each year shall be assessed and levied in each district as provided in section 6, and, subject to the maximum rate in that section mentioned, at such rate as may be determined for such year by the committee of such district with the approval of the Commissioner under section 150 or 151, or with the approval of the Lieutenant-Governor under section 153, as the case may be, or at such rate as the Lieutenant-Governor may order under section 153.

Rate at which road cess shall be levied how to be fixed

39 The public works cess for each year shall be assessed and levied in each district as provided in section 6, and, subject to the maximum rate in that section mentioned, at such rate as the Lieutenant-Governor may determine for such year.

Rate at which public works cess shall be levied how to be fixed.

[1] In districts in which the Bengal Local Self-Government Act of 1885 (Ben Act 3 of 1885) is in force the following has been substituted for s. 38 (see s. 2 and Sch. II of that Act, in Vol. II of this Code) —

"38 The road cess for each year shall be assessed and levied in each district as provided in section 6, and (subject to the maximum rate in that section mentioned) at such rate as may be determined for such year by the District Board."

As to fixing the rate of road cess, see Ben. Act 3 of 1885, s. 46, in Vol. II of this Code.

Rate at which road cess shall be levied how to be fixed.

(Part II — Mode of Assessment Chapter III — Rating and Levy of the Cesses — Secs 40-41)

Notice show  
ing amount of  
cess payable  
to be served  
on zamindars

40 When the rate of road cess and public works cess to be levied <sup>in</sup> any district shall have been determined for any year and published in the Calcutta Gazette [1] as provided in section 155, the Collector of the district

shall cause the rate so determined to be published by affixing a notification in some conspicuous place in the office of the said Collector, in every Civil Court, in every police-station, and in the office of every Sub-divisional Officer within the district, and

shall cause such rate to be proclaimed by beat of drum throughout the district, and

shall cause to be served on the holder of every estate within the district a notice showing the amount of road cess and public works cess payable in respect of his estate, and specifying the date from which such road cess and public works cess will take effect

Provided that it shall not be necessary to serve such notice when no change has been made in the valuation of the estate or in the rate of road cess or public works cess since the issue of the last notice under this section

Recovery of  
cess from  
tenures in  
Government  
estates

[2] 40A Notwithstanding anything in the definitions of "estate" and "tenure" in section 4 or elsewhere in this Act contained, the Board of Revenue may direct that any land (other than the holding of a cultivating raiyat) of which the rent or revenue is payable directly to the Government as proprietor thereof shall, for the purposes of this Part, be deemed to be a tenure and not an estate, and that the Government shall be deemed to be the holder of the estate within which such tenure is included, and thereupon the Collector may recover any sum payable from such tenure under the provisions of this Act, in the same manner and under the same penalties as if the same were arrears of rent or revenue due to him

Mode of pay-  
ment of road  
cess and pub-  
lic works cess  
by holder of  
estate,

41 Except as otherwise in this Act provided—

(1) every holder of an estate shall yearly pay to the Collector the entire amount of the road cess and public works cess calculated on the annual value of the lands comprised in such estate, at the rate or rates which may have been determined for such cesses respectively for the year as in this Act provided, less a deduction to be calculated at one-half of the said rates for every rupee of the

[1] The words and figures in s. 40 which are printed in italics are repealed in districts in which the Bengal Local Self-Government Act of 1885 (Ben Act 3 of 1885) is in force—see s 2 and Sch. II of that Act, printed in Vol II of this Code

[2] S 40A was inserted by Ben. Act 2 of 1881, s 4, printed post, p. 171

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THE CESS ACT, 1880

(Part II—Mode of Assessment—Chapter III—Rating and Levy of the Cesses—Sec 42)

revenue entered in the valuation-roll of such estate as payable in respect thereof,

(2) every holder of a tenure shall yearly pay to the holder of the estate or tenure within which the land held by him is included the entire amount of the road cess and public works cess calculated on the annual value of the land comprised in his tenure at the rate or rates which may have been determined for such cesses respectively for the year as in this Act provided, less a deduction to be calculated at one-half of the said rates for every rupee of the rent payable by him for such tenure,

by holder of  
tenure,

(3) every cultivating raiyat shall pay to the person to whom his rent is payable one-half of the said road cess and public works cess calculated at the said rate or rates respectively upon the rent payable by him, or upon the annual value ascertained under the provisions of section 24 or 25 of the land held by him

by cultivat-  
ing raiyat

42 (1) Every holder of a revenue-paying estate shall pay the amount of road cess and public works cess due by him in equal instalments on the several days fixed [1] [under the provisions of section 3 of Act 11 of 1859, or of any similar Act at the time being in force for the payment of arrears] of revenue due in respect of his estate, or, if such revenue be payable in one annual sum, then on the day fixed for the payment of such sum

Time of pay-  
ment by  
holder of an  
estate,

(2) Every holder of a revenue-free estate shall pay the amount of road cess and public works cess due by him in two equal instalments or in one annual payment upon such days or day as shall be for that purpose appointed by any order of the Lieutenant-Governor.

(3) Every holder of a rent-paying tenure and every cultivating raiyat shall pay the amount of road cess and public works cess due by him in instalments in the proportion of the instalments of rent payable in respect of the tenure or holding of such tenure-holder or raiyat

by tenure-  
holder and  
raiayat

Provided that in cases in which, according to local usage or to the terms of any agreement, no part of such rent falls due before the end of the year on account of which it is payable, the tenure-holder or raiyat shall pay the amount of road cess and public works cess due by him in two equal instalments upon such days as shall be for that purpose appointed by any order of the Lieutenant Governor.

[1] These words in square brackets in s. 42 (1) were substituted for the words "for the payment of the instalments" by Ben. Act 2 of 1881, s. 5, printed *post*, p. 171. Act 11 of 1859 is printed in Vol IV of this Code.

(Part II — Mode of Assessment — Chapter III Rating and Levy of the Cesses — Secs. 43, 44)

Distribution  
of valuation  
in case of  
partition

43 In case of partition of an estate being effected under Regulation 19 of 1814, [1] or Bengal Act 8 of 1876, [2] or any similar Act, after valuation of such estate and while such valuation remains in force, the total valuation of the original estate shall be distributed proportionately [3] [to the land-revenue] under the order of the Collector over the newly-formed estates whereupon the newly-formed estates shall, for the purposes of this Act, take the place of the original estate, the liability to pay cess in respect of each newly-formed estate being separate and distinct from the liability to pay cess in respect of any other of such newly-formed estates

Procedure to  
be followed  
when there is  
a partition

Such separate liability shall take effect from the same date as the separate liability of the newly-formed estates respectively in respect of land-revenue

The procedure prescribed by sections 34 and 35 shall be followed whenever a re-distribution of the valuation is made in consequence of a partition as mentioned in [4] [this section]

Effect of open-  
ing separate  
account under  
Act 11 of 1859  
or Ben Act 7  
of 1876

44. (1) When a recorded sharer of a joint revenue-paying estate has opened a separate account under Act 11 of 1859, [5] or under section 70 of Bengal Act 7 of 1876 [5] or any similar law for the time being in force for the regulation of the opening and maintaining of such separate accounts, he shall be entitled, in regard to the payment and realization of road cess and public works cess under this Act, to all the advantages of separate liability enjoyed by him under the said Act 11 of 1859 [5] and Bengal Act 7 of 1876 [5] in regard to the payment and realization of revenue, and shall be entitled to separate assessment and to the issue of separate notices under this Act from the date on which such advantages shall take effect in respect of the demand of Government revenue.

(2) Whenever any such separate account is opened after the valuation of an estate, and while such valuation remains in force, the Collector shall issue a notice on the holders of the shares severally, in respect of which the accounts are to be kept separately, informing them that, unless any objection is preferred to the Collector within one month of the service of such notice, the

[1] Reg 19 of 1814 was repealed by the Estates Partition Act, 1876 (Ben Act 8 of 1876)

[2] Ben. Act 8 of 1876 has been repealed and re enacted by the Estates Partition Act, 1897 (Ben. Act 5 of 1897), printed in Vol IV of this Code

[3] The words in square brackets in s 43 were inserted by Ben Act 2 of 1881, s 6, printed *post*, p. 171

[4] These words in square brackets in s 43 were substituted for the words "the last preceding section" by s 6 of the same Act, printed *post*, p. 171

[5] Act 11 of 1859 and Ben. Act 7 of 1876 are printed in Vol IV of this Code.

of 1880.]

THE CESS ACT, 1880

(Part II—Mode of Assessment—Chapter III Rating and Levy of the Cesses—Secs 45, 46)

amount of the cesses which the whole estate is liable to pay according to the existing valuation will, from the date on which such separate accounts were opened, be apportioned among such shares severally in proportion to the amount of Government revenue for the payment of which each such share is entered in the separate accounts as being liable. Such notice shall specify such proportionate amount.

(3) If no such objection be preferred within the time specified, such proportionate amount shall be the amount of the cesses for which the respective holders of such several shares are primarily liable as mentioned in section 13 of Act 11 of 1859 [1] subject, however, to the general responsibility of the holders of the entire estate as mentioned in section 14 of the said Act, if the amount of the cesses due on account of any such share cannot be recovered as provided in sections 98 and 99 of this Act from the holders of such share.

(4) If any such objection shall be preferred as aforesaid, the total amount of the cesses for which the whole estate is liable according to the existing valuation shall be apportioned among the several shares in respect of which such separate accounts are opened in proportion to the annual value of such shares respectively under such rules or special instructions, not being inconsistent with this Act, as may be issued by the Board of Revenue, and the holders of such several shares shall be primarily liable as aforesaid for the payment of the amount of the cesses so apportioned on their shares respectively.

[2](5) Whenever the separate account of the revenue payable in respect of any share or portion of an estate, as mentioned in clause (1) of this section, shall be closed, the provisions of this section shall cease to have effect in respect of such share.

45. If any instalment of road cess or public works cess or part thereof payable to the Collector shall not be paid within fifteen days from the date on which the same becomes due, the amount of such instalment or part thereof may be recovered at any time within three years after it became due, with interest at the rate of twelve [3] [and-a-half] *per centum per annum* calculated from the date on which such instalment became due, and with all costs of recovering the same.

Penalty for default of payment of instalments

46. (1) In any district to which the Lieutenant-Governor may specially order [4] that the provisions of this section shall be extended, it shall be lawful

With permission of the Lieutenant

[1] Act 11 of 1859 is printed in Vol. IV of this Code.

[2] Sub section (5) was added to s. 44 by Ben. Act 2 of 1881, s. 7, printed *post*, p. 172.

[3] These words in square brackets in s. 45 were inserted by s. 8, of the same Act.

[4] S. 46 has been extended to the district of Midnapur—see the Bengal Local Statutory Rules and Orders, 1903, Vol. I, p. 109.

(Part II—Mode of Assessment—Chapter III—Rating and Levy of the  
Cesses—Secs 47-49)

Governor,  
Collector may  
keep separate  
account of  
cesses payable  
by registered  
holders of  
revenue free  
estates

for the Collector to keep a separate account in respect of the amount of cesses payable and paid by any holder of a revenue-free estate who is recorded in Part I of the Collector's general register of revenue-free lands as proprietor or manager of any specified share or interest in any revenue free property

(2) Such separate account shall be opened and kept under such rules as to the levy of fees and other matters, and subject to such conditions and in such manner, as the Board of Revenue may from time to time prescribe, and the Board of Revenue may at any time order that any separate account which has been so opened shall be closed from such time as they may direct, and no longer kept as a separate account

(3) As long as any separate account shall remain open as provided in the [1] [preceding clause,] and no longer, the joint liability of the holders of such revenue-free estate for payment of the entire amount payable in respect of such estate shall cease, and the Collector shall recover the amount of cess or other demand due in respect of each share or interest for which an account has been so separately kept from the holder or holders of such share or interest only, and, if the Collector shall think fit to proceed under section 99, he shall take action under that section against the share or interest only in respect of which the sum demanded is due and the rents thereof [2]

Recovery by  
holders of  
estates or  
tenures

47 Every holder of an estate or tenure to whom any sum may be payable under the provisions of this Act may recover the same with interest at the rate of twelve and half *per centum per annum* in the same manner and under the same penalties as if the same were arrearis of rent due to him

Recovery from  
co-share  
holders

48 Any shareholder in an estate or tenure who may have paid the road cess or public works cess payable in respect of such estate, tenure or any part thereof in excess of the amount proportionate to his own interest in such estate or tenure, may recover from his co-shareis such sums as he may have paid on account of their respective shares and interests, in the same manner and under similar penalties, or may take credit for such sums in any adjustment of accounts between himself and his co-sharers

Recovery by  
recorded  
shareholders  
from their  
co-sharers by  
certificate  
process.

49. Whenever any shareholder in an estate who is recorded in the general register of revenue-paying and revenue-free lands maintained by the Collector, or whenever any shareholder in an estate the extent of whose share or interest in such estate is recorded in any other register kept up by the Collector of

[1] These words in square brackets in s 46 (3) were substituted for the words "preceding section" by Ben. Act 2 of 1881, s 9, printed *post*, p 172

[2] As to the effect of opening a separate account under this section, see also the Bengal Embankment Act, 1882, s. 71, *post*.



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THE CESS ACT, 1880

*(Part II—Mode of Assessment—Chapter IV—Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof—Sec 50)*

lands paying revenue or rent to the Collector direct, shall have paid the road cess or public works cess payable in respect of such estate, or any part thereof in excess of the amount proportionate to his own interest in such estate, he may, within fifteen days of such payment being made, move the Collector to make a certificate as provided by any law [1] for the time being in force for the recovery of public demands, specifying the amount which has been paid in by such shareholder as cess in respect of the recorded share or interest of any other shareholder in the estate,

and thereupon such Collector may, if he think fit, make such certificate, and such certificate shall have the same effect as a certificate made for the recovery of a public demand, and the same notices shall be issued and the same proceedings may be taken thereon by the Collector as in case of such certificate.

Provided that the person in whose favour the certificate has been made shall be deemed to be the decree-holder for the sum mentioned in the certificate, and all proceedings taken by the Collector for the recovery of the sums mentioned in the certificate shall be taken at the instance of the person in whose favour the certificate has been made, and at his cost, and on his responsibility, and not otherwise.

Provided also that, if any person against whom such certificate has been made shall object that the amount of the cesses for the recovery of which the certificate has been made is greater than the amount which the applicant for the certificate would recover from such person in a Civil Court as being equitably payable in respect of such person's share or interest in the estate, and if in the opinion of the Collector there is probable ground for such objection, the Collector may, if he see fit, cancel such certificate, and leave the applicant to his remedy in the Civil Court.

#### CHAPTER IV

VALUATION AND ASSESSMENT OF LANDS HELD RENT-FREE, AND PAYMENT AND RECOVERY OF CESS IN RESPECT THEREOF.

50 All lands held without payment of rent other than lands mentioned in section 33, and other than estates entered on the general register of revenue-free lands of the district, shall, for the purposes of this Act, be deemed to form

Rent-free lands in which estates or tenures to be

[1] See now the Public Demands Recovery Act, 1895 (Ben. Act 1 of 1895), printed in Vol. IV of this Code

*Part II—Mode of Assessment—Chapter IV—Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof—Secs 51 52)*

included for  
the purposes  
of this Act

a part of any tenure within the local boundaries of which they are contained, and if they are not contained within the local boundaries of any tenure, then to form a part of any estate within the local boundaries of which they are contained, and if they are not contained within the local boundaries of any estate, then to form a part of the estate in which they were included at the original settlement of such estate, and if there be any doubt as to the estate in which they were so included, then to form a part of such continuous estate as the Collector, in whose district such continuous estate is situate, shall by an order under his seal appoint

Holders of  
estates and  
tenures bound  
to return  
rent free  
lands and to  
pay cess at  
half rates for  
such lands  
included  
therein

Notice and  
extracts of  
valuation roll  
to be pub-  
lished by  
Collector in  
respect of  
such rent  
free lands

51 Every holder of an estate or tenure who is required by this Act to submit a return in the form in Schedule A contained shall be bound to enter in such return all lands of the nature of those specified in section 50 according to the tenor thereof, and shall be bound to pay road cess and public works cess on the annual value of such lands at one-half of the rates fixed under this Act for the levy of such cesses respectively in the district generally for the year

52. Whenever any lands held rent-free shall have been included in the return of any estate or tenure as provided in the last preceding section, the Collector shall, on publication of the valuation-roll of such estate or tenure as provided in section 35, cause to be published a notice in the form in Schedule D contained, to which notice shall be annexed such extracts from the valuation-roll of such estate or tenure as relate to such lands

Such publication may be lawfully made by affixing one copy of such notice and extracts at some conspicuous place in every village within which any such lands are situate,

by depositing another copy of the same at any police-station, registration-office or other Government office in the neighbourhood for the inspection of all concerned,

and by proclamation as herein next provided.

The proclamation shall be made by beat of drum throughout every such village, and shall be to the effect that such extracts have been so affixed and deposited, and that the owners and holders of such lands are required to inform themselves, by inspection of such extracts of the valuation put upon their lands, and to pay yearly to the holder of the estate or tenure in the return of which such lands are included the cesses which shall be payable in respect of such lands under the provisions of this Act.

of 1880 ]

THE CESS ACT, 1880

*(Part II—Mode of Assessment—Chapter IV—Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof—Secs 53, 54)*

53. Within a reasonable time not exceeding thirty days after the issue of any process for the recovery of any sum due from him as cess under this Chapter, the owner, holder or occupier of any such land may make before the Collector an objection to the valuation of his land as entered in the valuation-roll so published, and on such objection being made the Collector shall, by such ways and means as to him shall seem expedient, ascertain and fix the annual value of the land in the possession of such owner, holder or occupier, and may alter such roll accordingly, and shall give notice of any such alteration to the holder of the estate or tenure to which such roll relates

Holder of rent free land may object to valuation

Provided that nothing in this section shall be taken to authorize the Collector to alter any return so as to show any area of land as held rent free which the maker of such return can show to be accounted for by him in the return as rent-paying land

54. In the following cases, that is to say —

- (1) whenever a new valuation or re-valuation takes effect in any district or part of a district,
- (2) whenever the rate fixed for the levy of the road cess or of the public works cess in any year is changed from the rate at which such cess was levied in the preceding year, and
- (3) whenever the dates fixed by the Lieutenant-Governor under section 57 for payment of instalments of the cesses by holders of rent-free land are changed,

Notice to be published holders of estate in certain cases

the holder of every estate or tenure to whom any cesses are payable in respect of lands held free of rent shall cause a notice to be published in every village in which any such lands are situate, informing all concerned of the rate which has been fixed for the levy of such cesses respectively, and requiring every owner and holder of any such land of which the cesses are payable to the person who causes the notice to be published to pay the amount of the cesses specified in such notice as it falls due, until a similar notice of change of the amount shall be given.

Such notice shall contain the following information in respect of each tenure and holding of rent-free land which is entered separately in the Collector's valuation-roll :—

- (1) a specification of the land in respect of which the cesses are payable ;
- (2) the name of the owner, holder or occupier of such lands, if known ;

*(Part II—Mode of Assessment—Chapter IV—Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof—Secs 55, 56 )*

- (3) the annual value of such land as entered in the Collector's valuation-roll,
- (4) the rate on each rupee of the annual value which has been fixed under the Act for the levy of the road cess and public works cess respectively for the year,
- (5) the amount of the cesses payable in respect of each tenure or holding, calculated at such rates, and
- (6) the dates fixed by the Lieutenant-Governor under section 57 for the payment of each instalment, together with the amount of each instalment

Mode of  
publication

55 Publication of the notice abovementioned may be lawfully made by affixing one copy of the same at some conspicuous place in every village in which any such land is situate,

by depositing another copy thereof to be available for general inspection at any mal-cutchery of the estate or tenure in which such land is included, or at any other convenient place in the neighbourhood,

and by proclamation as herein next provided

The proclamation shall be made by beat of drum throughout such village, and shall be to the effect that such notice has been so affixed and so deposited, that it is open to inspection at the mal-cutchery or other convenient place as above mentioned, and that every owner and holder of rent-free land is required to inform himself of the contents of such notice and to pay the amount of the cesses due by him accordingly

Owner of  
rent free  
land bound to  
pay cess at  
full rate

56. After publication of the extracts from the roll as provided in section 52, and in cases in which publication of the notice mentioned in section 54 is required, after publication of such notice, and not otherwise, every owner and holder of any rent-free land included in such extracts, and every person in receipt of the rents and profits or in possession and enjoyment of such land, shall be bound to pay year by year to the holder of the estate or tenure in the return of which such land has been included the amount of the road cess and public works cess which may thereafter become due to such holder, calculated on the annual value of such land as entered in such extracts, or on any other annual value which may have been determined by the Collector under section 53, at the full rate or rates which may have been fixed under this Act for the levy of such cesses respectively in the district generally for the year.

of 1880 ]

THE CESS ACT, 1880

(Part II—Mode of Assessment—Chapter IV—Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof—Secs 57-62)

57 The payment of the cesses for each year by the holder of any land which is held rent-free shall be made by two equal instalments, or in one payment, upon such days or day as shall be for that purpose fixed by the Lieutenant-Governor

Instalments to be fixed by Lieutenant Governor

58. When an instalment of the cesses due on any rent-free land is not paid to the holder of the estate or tenure to whom it is due within one month of the date on which such instalment is payable, such holder shall be entitled to recover a sum equal to double the amount of such instalment due to him under sections 56 and 57, with interest on such sum calculated at the rate of twelve and a half *per centum per annum* from the date on which such instalment was payable, and with all costs of suit

If instalments not paid within a month, double the amount may be recovered

Provided that such holder shall have paid to the Collector all sums due to such Collector up to date in respect of road cess and public works cess, and not otherwise

59. If the holder of any estate or tenure shall have omitted to enter in his return (whether such return was made under Bengal Act 10 of 1871,[1] or under this Act) any rent-free land which he was bound to enter in such return, such holder may at any time after the passing of this Act give in to the Collector a supplementary return showing the necessary particulars in respect of the land so omitted in the form given in Part IV of Schedule A, and shall thereupon pay to the Collector the amount of the cesses which would have been payable by him to such Collector in respect of such land for the three years next preceding, or for any shorter period which may have elapsed since the estate or tenure was last valued.

Holders of estates, etc., may send in supplementary returns in respect of rent free lands

60. Such supplementary return shall to all intents and purposes have the same effect as a return duly made under the provisions of section 51, and sections 51 to 56 (both inclusive) shall be applicable to and in respect of any rent-free land included in such supplementary return.

Effect of supplementary returns

61 The provisions of sections 57 and 58 shall be applicable to every amount which, as provided in section 56, may become payable by the owner and holder of any such rent-free land to the holder of any such estate or tenure after the fulfilment of the requirements in sections 52, 53 and 54 contained.

Sections applicable to amounts payable by owner, etc., of rent-free land.

62. The provisions of section 58 shall not be applicable to any such amount which may have become so payable under the provisions of Bengal Act 10 of

Section 58 not applicable to such

[1] Ben Act 10 of 1871 has been repealed by this Act—see s 3, ante, p 106.

(Part II—Mode of Assessment—Chapter IV—Valuation and Assessment of  
Lands held Rent-free, and Payment and Recovery of Cess in respect there-  
of—Secs 63, 64)

amounts until  
sections 52,  
53 and 54  
are complied  
with

1871[1] or of this Act before the fulfilment of the requirements of the sections 52, 53 and 54, but, when any instalment of cess which may have become payable before the fulfilment of such requirements has not been paid to the holder of such estate or tenure on the date on which such instalment was payable, the holder of such estate or tenure may recover the amount of such instalment, together with interest at the rate of twelve and a half *per centum per annum* on such amount, and with all costs of suit

Provided that no holder of an estate or tenure shall recover any amount under the provisions of this section unless he has paid to the Collector all sums which became payable by him to such Collector on account of road cess and public works cess, at any date within the year in which the amount sought to be recovered became payable to such holder of an estate or tenure

Owner of  
rent free land  
liable to pay  
cess in  
future

63. As soon as the said requirements shall have been fulfilled in respect of any such land which is included in any such supplementary return, every owner and holder of such land and every person in receipt of the rents and profits, or in possession and enjoyment of such land, shall be bound to pay the amount of the road cess and public works cess which may thereafter become due on such land to the holder of the estate or tenure, in the supplementary return of which such land has been included. Sections 56 and 57 and 58 shall be applicable to the cesses so payable

Additional  
return of  
rent free land  
entered in  
return under  
Ben Act 10 of  
1871 may be  
made

64. (1) Every holder of an estate or tenure who has included any rent-free lands in any return made to the Collector in respect of his estate or tenure under the provisions of the Bengal Act 10 of 1871,[1] and has paid to the Collector any cess payable under the said Act, or under the Bengal Act 2 of 1877,[2] in respect of the said rent-free lands, may at any time after the commencement of this Act give in to such Collector an additional return in the form given in Part IV of Schedule A.

Additional  
return to be  
deemed sup-  
plementary  
return,

(2) Such additional return shall be deemed to be a supplementary return within the meaning of section 59, and from the date of the inclusion of any such lands in such additional return the same consequences shall ensue, and the same rights and obligations accrue to the Collector and to the holder of such estate or tenure, and the same liabilities shall attach to the owner, holder and occupier of such lands, as would have attached to them respectively if such lands had been included in a supplementary return given in under section 59

[1] Ben. Act 10 of 1871 has been repealed by this Act—see s. 3, ante, p. 106.

[2] Ben. Act 2 of 1877 has been repealed by this Act—see s. 3, ante, p. 106

of 1880 ]

THE CESS ACT, 1880

(Part II—*Mode of Assessment*—Chapter IV—*Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof*—Secs 64A-66)

[1] 64A. All sums due to the holder of any estate or tenure under the provisions of this Chapter, in respect of any land held rent-free, may be recovered by such holder from any owner or holder of such rent-free land, or from any occupier of the same, by any means and any process by which the amount might be recovered if it were due on account of rent of a transferable tenure or holding, and subject to the same rules as to limitation

Holders of estates, etc., how to recover from holders of rent free lands

Provided that, if any such objection as is mentioned in section 53 has been made before the Collector, no proceedings shall be commenced, and no proceedings which have been commenced shall be continued, for recovery of cess in respect of the lands which are the subject of such objection, until such objection shall have been disposed of by the Collector.

[1] 64B. In every suit for the recovery of any such sum, the person to whom the sum is due may proceed at his option either against the owner or holder of the rent-free land in respect of which such amount is due, or against the occupier thereof and any decree obtained in such suit against any occupier of such land shall have the same effect and be followed by the same consequences in respect of the execution of such decree against the owner or holder of such land, and in respect of the sale of such land in such execution, as if the suit had been brought and the decree given against such owner or holder of such land, but shall have effect against such occupier personally so long only as he remains in occupation of such land, and no longer

Owner, holder or occupier of rent free lands may be sued  
Decree against occupier tantamount to decree against owner

65. Whenever any occupier of land which is held rent-free by the owner thereof shall have paid any sum as cess due in respect of such land to any holder of an estate or tenure to whom such cess is payable, such occupier shall be entitled to deduct the sum so paid by him from the rent next thereafter payable by him to the owner of such land, until such sum is fully adjusted

Occupier may deduct cess paid from rent

66. Notwithstanding anything in this Chapter contained, the Collector may at any time cause a notice as mentioned in section 16 to be served on the holder of any rent-free land which he shall consider not to have been entered in the return of any estate or tenure in which such land ought to have been included under the provisions of section 51. Such notice shall require the holder of such land to lodge at the office of the said Collector a return in the form in Schedule A contained in respect of such land ;

Notice to be served on holder of rent free land requiring him to lodge return.

[1] Ss 64A and 64B were inserted by Act 7 of 1881, and are to be deemed to have been inserted from the date on which Ben. Act 2 of 1880 came into force—see Act 7 of 1881, s. 1, printed post, p 170

(Part II.—Mode of Assessment—Chapter IV—Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof.—Secs 67-70)

and on service of such notice the provisions of this Chapter shall no longer apply to such lands, but the same consequences shall ensue and the same liabilities shall attach to the holder of such land as would have ensued and would have attached if such lands had constituted a revenue-free estate

If the Collector has reason to believe that any land in respect of which he determines to serve such notice has been included in the return of any estate or tenure, he shall give notice of his intention to the holder of such estate or tenure, and shall alter such return as may be requisite, and shall correct the valuation and assessment of such estate or tenure as may be required

If no notice served, such holder bound to notify omission to Collector

67. If within one year of the commencement of this Act no notice has been served as mentioned in section 66 on the holder of any rent-free land requiring him to lodge a return in the office of the Collector, and if such land has not been included in any extracts from the returns of estates and tenures published by the Collector under section 52 or other similar section, the holder of such rent-free land shall be bound within one month of the expiration of such year to give information of such omission to the Collector, together with a description of the said land, a specification of the village or villages within which it is situate, the area in each village, and the amount of rent payable to him thereupon

Provided that no holder of rent-free land who at any time after the expiration of the time prescribed shall of his own motion and otherwise than after the issue of any notice by the Collector in respect of his lands give such information to the Collector shall be liable to prosecution for omitting to give such information within the prescribed time

Collector thereupon may require such holder to make return

68. On receipt of such information, whether within the time prescribed or after the expiration thereof, the Collector may, by an order in writing, require such owner or holder to make a return of his land in the form in Schedule A contained, or, if the gross rental of such land does not exceed one hundred rupees, may order that such land shall be summarily valued under section 27 or section 28, and may proceed to make such valuation

Order to have effect of notice.

69. Every order made by a Collector under the last preceding section shall have the same effect and be followed by the same consequences as the issue of a notice by the Collector under section 66

Liability of such holder to pay arrears of cesses.

70. As soon as any rent-free land, which had not previously been included in the valuation of any estate or tenure, has been valued by the Collector after the issue of a notice as provided in section 66, or after an order made under



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THE CESS ACT, 1880

(*Part II—Mode of Assessment—Chapter IV—Valuation and Assessment of Lands held Rent free, and Payment and Recovery of Cess in respect thereof—Chapter V—Valuation, Assessment and Levy of Cesses on Mines, Railways and other Immoveable Property—Secs 71, 72*)

section 68, the holder of such land shall become liable to pay to the Collector the road cess and the public works cess due on such land, in accordance with such valuation, for the three years last preceding such valuation, at the full rates at which such cesses were respectively levied for each such year in the district generally, together with interest calculated at twelve and a half *per centum per annum* on each instalment from the date on which such instalment would have been payable if such valuation had been in force

71 No owner or holder of rent free land on whom a notice has been served by the Collector under section 66, or in respect of whose land an order has been made by the Collector under section 68, shall be liable to have the land to which such notice or order refers included in any return of an estate or tenure, or to pay any amount as road cess or public works cess otherwise than to the Collector or to some person appointed by him in that behalf, unless, on a re valuation of any estate or tenure being made, the Collector shall by an order in writing direct that for the future such land shall be included within such estate or tenure for the purposes of this Act,

Such holder is not liable to pay cesses except to Collector or his Deputy

and, upon such order being made, the provisions of this Chapter, in so far as they are applicable, shall apply to the assessment and payment of road cess and public works cess in respect of such land

## CHAPTER V.

### VALUATION, ASSESSMENT AND LEVY OF CESSSES ON MINES, RAILWAYS AND OTHER IMMOVEABLE PROPERTY.

72. On the commencement of this Act in any district, and thereafter before the close of each year, the Collector of the district shall cause a notice to be served upon the owner, chief agent, manager or occupier of every mine, quarry, tramway, railway and other immoveable property not included within the provisions of Chapter II, and not being one of the tramways or railways mentioned in section 8, such notice shall be in the form in Schedule E contained, and shall require such owner, chief agent, manager or occupier to lodge in the office of such Collector within two months a return of the net annual profits of such property, calculated on the average of the annual net profits thereof for the last three years for which accounts have been made up.

Notice to return profits.

(Part II — Mode of Assessment — Chapter V.—Valuation, Assessment and Levy of Cesses on Mines, Railways and other Immoveable Property.—Secs 73-79.)

Such Collector may in his discretion extend the time allowed for lodging such return

When property lies in different districts

**73** Whenever any property assessable under this Chapter lies in two or more districts, the notice to furnish a return under section 72 shall be served on the owner, chief agent, manager or occupier of such property by or through the Collector of the district in which such owner, chief agent, manager or occupier may reside or have his chief place of business, and one return for the whole of such property shall suffice

When property is partly in and partly outside Bengal

**74** Whenever any property assessable under this Chapter lies partly within and partly outside the territories administered by the Lieutenant-Governor of Bengal, the return furnished as required by section 72 shall state the total annual net profits calculated as aforesaid accruing from such property, and also the proportion of such profits which may reasonably be calculated to accrue in the territories administered by the Lieutenant-Governor of Bengal.

If return not furnished or incorrect, Collector to make valuation

**75** If such return be not furnished within the period of two months from the date on which such notice was served, or within any extended time allowed by the Collector of the district, or if such Collector shall deem that any return made in pursuance of such notice is untrue or incorrect, such Collector shall proceed to ascertain and determine by such ways or means as to him shall seem expedient the annual net profits of such property calculated as aforesaid.

Valuation on value of property

**76** If such Collector be unable to ascertain the annual net profits as aforesaid of any property assessable under this Chapter, he may, by such ways or means as to him shall seem expedient, ascertain and determine the value of such property, and shall thereupon determine six *per centum* on such value to be the annual net profits thereon

Cost of valuation from whom to be recovered

**77** The expenses incurred in making any valuation under section 75 or section 76 may be recovered together with all costs of the recovery thereof as provided in section 98 from the person who was bound to make such return or who made the incorrect return.

Notice of valuation

**78.** So soon as such Collector shall have ascertained and determined the annual net profits as aforesaid of any such property, he shall cause to be served upon the owner, chief agent, manager or occupier of such property a notice informing him of the amount of the annual net profits so ascertained and determined by him.

Valuations under this

**79.** New valuations under this Chapter shall be made by the Collector of the district every year, and such Collector may for that purpose cause such

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THE CESS ACT, 1880

(Part II—Mode of Assessment—Chapter V—Valuation, Assessment and Levy of Cesses on Mines, Railways and other Immoveable Property—Secs 80-82)

notices to be issued and served, and such returns to be made, and shall have such powers and authorities as are in this Part mentioned and conferred

Chapter to be annual

Provided that, whenever any return made under section 72 shall be accepted by the Collector for any year, the owner, chief agent, manager or occupier of such property may, if he see fit, declare in writing at the time of such acceptance that the annual net profits set forth in such return may, for the purposes of this Act, be deemed to be the annual net profits for each of the five years then next ensuing,

Declaration of annual net profits by owner for five years

and, if the Collector of the district shall agree to accept such declaration, no new valuation shall be made of such property until the said five years shall have expired

Effect of acceptance by Collector of declaration

80. When the rate of road cess and public works cess to be levied in the district upon property assessable under this Chapter shall have been determined for any year as in this Act provided, the Collector of the district shall cause to be served on the owner, chief agent, manager or occupier of every such property a notice showing the amount of road cess and public works cess respectively payable in respect of such property, and specifying the date from which such cesses shall take effect

Notice of rate of cess and dates of payments.

And such amount shall be payable by such owner, chief agent, manager or occupier to such Collector in two equal instalments—the first on the expiry of six months, the second on the expiry of nine months, after the date fixed as hereinbefore provided for the commencement of the year.

81. In any case in which the occupier of such property is a different person from the owner, and has paid in excess of half of the sum due as road cess and public works cess an account of any instalment, such occupier shall be entitled to deduct the amount of such excess from the next and subsequent instalments of rent payable in respect of such property, and every owner who has paid in excess of half of such sum due shall be entitled to recover the amount of such excess from the occupier

Recovery by occupier or owner who has paid in excess

Provided that in no case shall an occupier deduct from his annual rent more than half of the rate of the road cess and public works cess on every rupee thereof.

82. The total of the cesses payable in respect of property assessable under this Chapter owned or occupied by the same person in two or more districts, shall be payable to the Collector of the district where the owner, chief agent, manager or occupier may reside or have his chief place of business, and shall

How distributed when property in different districts.

(Part II.—*Mode of Assessment*—Chapter V—*Valuation, Assessment and Levy of Cesses on Mines, Railways and other Immoveable Property*—Chapter VI—*Special Provisions for Orissa and Midnapore*—Secs 83-86)

be by him transmitted to the Collectors of other districts in the proportion in which the [1] *committees* of such districts shall be severally entitled thereto, as provided in the section next following

Determina-  
tion of pro-  
portion of pro-  
fits when pro-  
perty in  
different dis-  
tricts

83. Whenever any property assessable under this Chapter lies in two or more districts, the Lieutenant-Governor shall from time to time determine out of the total annual net profits stated in the return, or in the valuation of such profits accruing in the territories subject to him, and ascertained in any manner as aforesaid, the proportions in which such property shall be assessed in each of the said districts respectively, and the proportion of the road cess due thereon which shall be assigned to the [1] *committee* of each district concerned

Service of  
notices under  
this Chapter

84. Every notice under this Chapter may be served—

- (a) by leaving it at the registered office (if any) of such owner, chief agent, manager or occupier aforesaid, or
- (b) by sending it by post in a letter addressed to such owner, chief agent, manager or occupier at his office, or, if he have more offices than one, at his principal office, or
- (c) by giving it to such owner, chief agent, manager or occupier.

## CHAPTER VI.

### SPECIAL PROVISIONS FOR ORISSA AND MIDNAPORE

Collectors in  
Orissa and  
Midnapore  
may order cer-  
tain revenue-  
free estates to  
be annexed to  
other estates  
for purposes  
of payment of  
cess

85 In any district of the province of Orissa, and in the district of Midnapore, the Collector may at any time, with the sanction of the Commissioner, order that any revenue-free estate not exceeding five hundred standard bighas in extent, of which the valuation shall have been completed, shall, for the purpose of payment and levy of the cesses due in respect thereof, be annexed to any other estate within the ambit of which it is situate or which it adjoins.

Notice to be  
given to hold-  
er of estate to  
which such  
revenue-free  
estate is  
annexed.

86. Notice of such order shall be given by the Collector to the holder of the estate to which such revenue-free estate is ordered to be so annexed, and to such notice shall be appended a copy of the valuation-roll of the said revenue-free estate, and thereupon such holder shall be liable to pay annually

[1] In districts in which the Bengal Local Self Government Act of 1885 (Ben Act 3 of 1885) is in force, the words "district road funds" have been substituted for "committees," and "district road fund" for, "committee," in ss 82 and 83, respectively—see s 2 and Sch II of that Act, in Vol II of this Code.

of 1880.]

THE CESS ACT, 1880

(Part II—Mode of Assessment—Chapter VI—Special Provisions for Orissa and Midnapore—Chapter VII—Miscellaneous—Secs 87-91)

to the Collector, on account of such revenue-free estate, road cess and public works cess at one-half of the rates which may be fixed under this Act for the levy of the said cesses respectively in the district generally for each year

87 Notice of such order shall also be given by the Collector to the holder of the said revenue free estate, and such notice shall require him to pay annually, and he shall thereupon be bound to pay to the holder of such other estate road cess and public works cess at the full rates which may be fixed under this Act for the levy of the said cesses respectively in the district generally for each year.

Notice to be given to holder of revenue free estate

88. Such cesses shall be so payable by the holder of the said revenue-free estates in two equal instalments, on such dates as may be fixed by the Lieutenant-Governor under section 42 for the payment of cess by the holders of revenue-free estates, or in such other instalments and on such other dates as the Lieutenant-Governor may direct, or, if the Lieutenant Governor shall so order, the whole amount so payable on account of such cesses for each year shall be payable in a single sum on any such date as the Lieutenant-Governor may appoint.

Cesses payable by holder of revenue free estates in such instalments as Lieutenant Governor may direct

In default of payment as hereby required, the provisions of section 47 shall be applicable.

89. Whenever the service of a notice on the holder of a revenue-free estate is required by the provisions of section 40, the Collector shall cause such notice to be served, notwithstanding that the revenue free estate may have been annexed to another estate as hereinbefore provided

Notices to be served.

and the Collector shall further cause a notice containing the same particulars to be served in respect of such revenue-free estate on the holder of the other estate to which it is under the provisions of section 85 annexed.

90. The Collector may at any time, with the sanction of the Commissioner, revoke any order passed under section 85, and shall give notice of such revocation both to the holder of the revenue-free estate affected and to the holder of the other estate to which such revenue-free estate was annexed.

Collector may revoke orders passed under section 85.

## CHAPTER VII.

### MISCELLANEOUS.

91. The Collector, with the sanction of the Board of Revenue, may appoint such establishments as may be required for making valuations and re-valuations under this Act, for making collections, recovering arrears, keeping

Collector may appoint certain establishments.

accounts connected therewith, and generally for all purposes connected with such valuations, ie valuations, collections and recoveries, and other purposes of this Act, and may incur such other expenses as are requisite for such purposes, and the payment of such establishments and other charges on bills signed by the Collector shall be the first charge on the district road fund

Powers of  
Collector in  
making  
valuation

92. For the purpose of making any valuation of lands directed by this Part, the Collector shall exercise the powers vested in Collectors by clause 1 of section 23 and clause 1 of section 24 of Regulation 7 of 1822,[1] except so far as the said clauses authorize any inquiry into rights or interests attaching to such lands

Commissioner  
or Board may  
revise valua-  
tion  
False returns

93 Every valuation under this Part shall be open to revision by the Commissioner or Board of Revenue, and not otherwise

94. Any person who is bound to make any return under this Part shall be deemed to be legally bound to give notice and to furnish information to a public servant in respect of the same

If the Collector shall see ground for believing that any return made is false, he may prosecute the maker accordingly

And, if the person so prosecuted is convicted, the Collector may proceed to make a valuation of the lands mentioned in such return by such ways and means as to him shall seem expedient

Returns  
evidence  
against the  
maker only

95. Every return filed by or on behalf of any person in pursuance of the provisions of this Part shall bear the signature and address of such person, or his authorized agent, and shall be admissible in evidence against such person, but shall not be admissible in his favour

Service of  
notices under  
this Part.

96. Every notice under this Part required to be served, except as otherwise expressly provided, may be served—

- (1) by delivering the same to the person to whom it is directed, or, on failure of such service, by posting the same on some conspicuous part of the house in which the said person resides, or by delivering the said notice to any agent authorized to appear generally for the person to whom such notice is directed; or
- (2) by sending a registered letter containing such notice directed to the said person at his usual place of abode or to the place where he may be known to reside, or
- (3) by posting a copy of the notice at the mal-cutcherry of the estate or tenure to which the notice relates, or, if no such mal-cutcherry be

[1] The Bengal Land-revenue Settlement Regulation, 1822. It is printed in Vol. II of this Code.

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THE CESS ACT, 1880

(Part II—Mode of Assessment—Chapter VII—Miscellaneous—  
Secs 97, 98)

found, on some conspicuous place on such estate or tenure and, in the case of estates paying their annual revenue by four instalments, by delivering another copy thereof to the agent who shall have paid an instalment of revenue next after the preparation of such notice. In all cases where two or more persons are holders of an estate or tenure, service of notice under this clause shall be deemed to be good and sufficient service on each and all of such persons.

97 The costs of service of every notice and process by this Act required to be served shall in the first instance be defrayed from the district road fund, and, subject to such rules as may be made by the Board of Revenue under section 106, shall be recoverable either from the person to whom such notice or process is addressed, or from the person owing to whose default such notice or process is issued, as the Collector may think fit, and every such amount shall be deemed to be due to the Collector, but when levied by the Collector shall be credited to the district road fund.

Costs of service

Provided that no costs or other expenses whatever shall be recovered from any person in respect of the publication or issue of any proclamation or notice calling for any return, or giving intimation of any amount payable by any person as cess under this Act other than notices of demand to pay any amount of cess which has become due.

No costs to be recovered for certain notices

[1] 98 Every amount due, or which may become due, to any Collector under the provisions of this Act in respect of any arrears of cess, of any expenses incurred, of any fee or costs payable, of any notices served, of any fines imposed, or on any other account, may be realized by such Collector by any process provided by any law<sup>[2]</sup> for the time being in force for the realization of public demands, and shall be deemed to be a public demand under such law.

Dues under the Act to be levied as public demand

Provided that the [3] district road committee shall indemnify the Collector of the district for all expenses incurred, and for all costs and damages for which such Collector may become liable (whether in connection with suits before the Civil Courts or otherwise) in respect of any proceedings for the recovery of any such dues as aforesaid.

[1] S 98 is also applicable to the recovery of fines imposed under s 18 and certain other sums—see ss. 18 and 77, *ante*, pp. 113 and 134. As to the recovery of cesses in respect of Mundari Khunt & Kattidari tenancies in Chota Nagpur, see The Chota Nagpur Landlord and Tenant Procedure Act 1879 (Ben. Act 1 of 1879), s. 155, in Vol. II of this Code.

[2] See now the Public Demands Recovery Act, 1895 (Ben. Act 1 of 1895), printed in Vol. IV of this Code.

[3] In districts in which the Bengal Local Self-Government Act of 1885 (Ben. Act 8 of 1885) is in force, for the words printed in italics in s. 98 the words "district road fund" have been substituted—see s. 2 and Sch. II of that Act, printed in Vol. II of this Code.

(Part II—Mode of Assessment—Chapter VII—Miscellaneous—  
Secs 99, 100)

Collector may  
recover dues  
out of rent

[1]99 Instead of proceeding as provided by the last preceding section for the recovery of any sum due under this Act, or if after so proceeding the Collector shall have failed to find property belonging to the person from whom any such sum is due, by the sale of which such sum may be fully recovered, the Collector may, if he see fit, after recording his opinion to that effect, cause a notification in form in Schedule F continued to be issued for the estate or tenure in respect of which any such amount is due.

Such notification shall be published by beat of drum in every village containing any land to which such notification relates, and a copy thereof shall be posted in a conspicuous place in every such village and at the mal-cutcherry of the estate or tenure to which such notification relates, if such cutcherry be found

Every payment of rent, save and except to the Collector or some person by him thereunto appointed, made after such publication, until further order from the Collector, shall be null and void,

and the Collector may recover by any process of law for the time being in force, by which he might recover rent due to the Government from a tenant in an estate which is managed directly by the Collector, the rent then or thereafter to become due from any occupier, tenure-holder, under-tenant or raiyat on the estate or tenure in respect of which the notification has been issued, until the amount due to the Collector together with all costs shall be satisfied, whereupon the said notification shall be revoked

The receipt of the Collector in respect of all sums paid to him as rent or so recovered shall be, to the extent of such sums, a valid discharge in respect of rent due by the occupier, tenure-holder, under-tenant or raiyat to whom such receipt is given.

Collector's  
claim to have  
priority.

In case the Collector shall see fit so to proceed, the claim for arrears of road cess and public works cess due from any estate or tenure in respect of which a notification has been issued as above provided shall have priority over any other demand or claim or lien existing thereupon other than the demand of Government-revenue

Lieutenant-  
Governor may  
invest any  
person with  
Collector's  
powers.

100. The Lieutenant-Governor may at any time invest any person with the powers of a Collector under this Part to be exercised by such person under the control or supervision of the Collector, or independently of such control and supervision, as the Lieutenant-Governor shall direct.

[1] S. 99 is also applicable to the recovery of fines imposed under s. 18—see s. 18, ante, p 113.



of 1880 ]

THE CESS ACT, 1880

(Part II — Mode of Assessment — Chapter VII — Miscellaneous —  
Secs 101-106 )

101 The Collector may, with the sanction of the Commissioner, delegate all or any of his powers and functions under this Part to be exercised, under the control and supervision of the Collector, by any Deputy Collector, Assistant Collector, Sub-Deputy Collector or other officer of like rank

Collector may  
delegate  
powers

Provided that every order passed by such Deputy Collector, Assistant Collector, Sub-Deputy Collector or other officer shall be appealable to the Collector within fifteen days of such order being passed

102 Every person who shall deem himself to be aggrieved by any valuation made by a Collector under the provisions of sections 75 or 76 may, within one month after the issue of the notice mentioned in section 78,

Appeals  
against  
valuation

and every person who shall deem himself to be aggrieved by any valuation made by the Collector under the provisions of any other section of this Part may, within one month after the posting up of a copy of the valuation-roll as mentioned in section 85,

prefer his objections to the Collector, and if such objections, or any of them, are disallowed, may, within one month of such disallowance, appeal to the Commissioner against such valuation, and the decision of the Commissioner shall be final.

103. Every order for the levy of a fine or of expenses passed by a Collector under this Act shall be appealable to the Commissioner within one month from the service of the first process for the levy of such fine or expenses Except as otherwise provided in section 18, pending such appeal, and until the order of the Commissioner, which shall be final, all process for such levy shall be discontinued

Orders for  
levy of fine  
appealable

104. Every order passed by the Collector under sections 19, 20, 26, 50, 51, 53, 85, 94 or 99 shall be appealable to the Commissioner within one month from the date of such order.

Orders appeal-  
able to Com-  
missioner

105. Notwithstanding anything hereinbefore contained, all proceedings of the Collector or of any officer of a lower grade under this Part shall be subject to the general control and supervision of the Commissioner and of the Board of Revenue, and all such proceedings of the Commissioner shall be subject to the general control and supervision of the Board of Revenue.

Collector's  
proceedings  
subject to  
supervision of  
Commissioner  
and Board.

106. The Board of Revenue may from time to time make, and, when made, from time to time alter, add to or cancel, any rules—

Board may  
make rules.

(a) prescribing forms for the notices, returns and valuation-rolls required by this Part to be issued or made ;

(Part II—Mode of Assessment—Chapter VII—Miscellaneous—Part III—Constitution and Administration of the District Road Fund—Chapter VIII—Constitution and Application of the District Road Fund—Secs 107, 108)

- (b) prescribing the amounts which shall be levied in respect of the issue of each notice and process under this Part, and regulating the recovery thereof under section 97,
  - (c) prescribing the amount of copying fee to be levied in respect of supplying extracts and copies of returns and valuation-rolls as provided in section 34,
  - (d) apportioning the amount of the cesses for the payment of which the respective holders of the several shares of an estate in respect of which separate accounts are kept shall be primarily liable under section 44,
  - (e) regulating the opening, keeping and closing of separate accounts in respect of amounts of cess payable by recorded shareholders in revenue free estates as provided in section 46,
  - (f) regulating the proceedings of the Collectors under Chapter V,
- and otherwise providing for the proper execution of this Act in respect of valuations of the assessment and of the levy of the cesses and other sums due under the same

All rights in  
immoveable  
property  
saved unless  
affected by  
this Act

107 Nothing in this Part contained, and nothing done in accordance with this Act, shall be deemed to affect the rights of any person in respect of any immoveable property or of any interest therein except as otherwise expressly provided in this Act

### PART III.

## CONSTITUTION AND ADMINISTRATION OF THE DISTRICT ROAD FUND.

### CHAPTER VIII.

#### CONSTITUTION AND APPLICATION OF THE DISTRICT ROAD FUND

Constitution  
of district  
road fund

108 The district road fund of every district under this Act shall consist of the amount produced by the road cess,

of all sums levied or recovered as fines, penalties or otherwise in respect of the cesses under this Act [1] [not being interest levied in respect of public works cess].

[1] These words in square brackets in s 108 were inserted by Ben. Act 2 of 1881, s 10, printed *post*, p 172.

of 1880 ]

THE CESS ACT, 1880

(Part III—Constitution and Administration of the District Road Fund—  
Chapter VIII—Constitution and Application of the District Road  
Fund—Sec 109)

of all sums assigned by the Government thereto, whether as a contribution from the proceeds of the public works cess towards the expenses of assessing and collecting such cess jointly with the road cess or otherwise,[1] and

of all sums whatsoever which may be at the disposal of the District Road Committee as hereinafter appointed

[2] 109 The district road fund of every district shall be applicable to the following objects and in the following order — Application of district road fund

Firstly —To the payment of the cost of establishments entertained and expenses incurred by the Collector as mentioned in section 91,

to the indemnification of the Collector, with the sanction of the Commissioner, for any other costs or damages which he may have incurred, or for which he may have become liable in the course of the proceedings for the assessment and collection of the cesses under this Act,

and to the payment of such sums as may be determined by the Lieutenant-Governor for the purposes mentioned in section 181, subject to the limit imposed in that section

Secondly —To the payment of establishments entertained and expenses incurred by the district road committee for the purposes of this Act, and of any leave-allowances, gratuities or pensions which may be payable under this Act

Thirdly —To the payment of any sums which the committee may under this Act from time to time have undertaken to pay as interest on capital expended on any works which may directly improve the means of communication within the district or between the district and adjacent districts

[1] The words printed in italics in s 108 are repealed in districts in which the Bengal Local Self Government Act of 1885 (Ben Act 3 of 1885) is in force—see s 2 and Sch II of that Act, printed in Vol II of this Code

[2] In districts in which the Bengal Local Self Government Act of 1885 (Ben Act 3 of 1885) is in force, the following has been substituted for s 109 (see s 2 and Sch II of that Act, printed in Vol II of this Code) —

“109 The district road fund of every district shall be applicable to the following objects and in the following order Application of district road fund

Firstly.—To the payment of the cost of establishments entertained and expenses incurred by the Collector under section 91

Secondly —To the indemnification of the Collector, with the sanction of the Commissioner, for any other costs or damages which he may have incurred, or for which he may have become liable, in the course of the proceedings for the assessment and collection of the cesses under this Act

And the balance, after payment of such expenses, shall be credited to the district fund of the district”

In such districts, the balance of the district road fund, after payment of the expenses mentioned in this new section 109 is to be placed to the credit of the “District Fund”—see s, 52 (1) of the Act of 1885

*(Part III—Constitution and Administration of the District Road Fund—  
Chapter VIII—Constitution and Application of the District Road  
Fund—Sec 109)*

*Fourthly—To the repair and maintenance of roads, bridges, water-channels and other means and appliances for facilitating communications which have been taken charge of by the committee under this Act, or towards which they may have agreed to contribute*

*Fifthly—To the construction of new roads, bridges, water channels and other means of communication,*

*to the construction, provision, repair and maintenance of any means and appliances for facilitating communication within the district or between the district and adjacent districts which the committee may determine to construct or to take charge of, or towards which they may determine to contribute,*

*to the planting of trees by the roadside, and*

*to the construction and maintenance of any means and appliances for improving the supply of drinking-water, or for providing or improving drainage and*

*Sixthly—To investment in any local debenture loans issued by the Government of India or the Lieutenant-Governor for the construction of productive works, which may directly improve the means of communication within the district, or between the district and adjacent districts*

*Provisions*

*Provided—*

*(1) that no sum shall be expended from the district road fund in the construction of any channel for the purposes of irrigation, or for the purposes of drainage connected with any irrigation works in charge of public officers, or for the improvement or maintenance of any water channel on which tolls are levied, when the proceeds of such tolls are not paid into the district road fund;*

*(2) that no part of the district road fund of any district shall be applied to the construction or maintenance of any road within any first or second class municipality under the Bengal Municipal Act, 1876,[1] unless such road shall have been expressly excluded from the operation of the said Act under section 32 thereof; and*

*Ben. Act 5 of 1876.*

*(3) that no part of the district road fund of any district shall be expended on any work or for any purpose without the limits of such district, unless the special sanction of the Lieutenant Governor to such*

[1] Ben. Act 5 of 1876 has been repealed and re enacted by the Bengal Municipal Act, 1884 (Ben Act 3 of 1884), which is printed in Vol III of this Code

of 1880 ]

THE CESS ACT, 1880

(Part III—*Constitution and Administration of the District Road Fund*—  
Chapter VIII—*Constitution and Application of the District Road Fund*—Chapter IX—*The District Road Committee*—Secs 110 114)

*expenditure shall have been obtained, as being for the benefit of the district charged*

[1] 110 *With the sanction of the Lieutenant-Governor, the committee may from time to time undertake to guarantee the annual payment from the district road fund of such sums as they shall think fit, as interest on capital expended on any works which may directly improve the means of communication within the district, or between the district and other districts*

*Committee may guarantee sums for district road fund as interest on capital*

[1] 111. *Whenever any works to which any portion of the road fund of any district is applicable under the last preceding section extend over more than one district, the Lieutenant-Governor may decide the proportions in which the road fund of each district concerned shall contribute towards the cost or interest upon the cost of such works*

*Lieutenant Governor may apportion costs of works extending over more than one district*

## CHAPTER IX

### THE DISTRICT ROAD COMMITTEE

[1] 112 *For the administration of the district road fund and for the construction, repair and maintenance of district roads, bridges, water-channels and other works as aforesaid under this Act, the Lieutenant-Governor shall from time to time appoint, or cause to be elected, under such rules in regard to qualification, election and discharge as may by him be prescribed, any number of the payers of road cess of such district, their managers or agents, to be members of a district road committee*

*Constitution of district road committee*

[1] 113. *Every member of the committee may hold office for five years from the date of his appointment or election, and the Lieutenant-Governor may at any time before the expiration of such term of five years accept the resignation of such member*

*Members may hold office for five years  
Resignation of member*

[1] 114. *The Lieutenant-Governor may remove any member appointed or elected under this Act, if such member shall have been guilty of misconduct in the discharge of his duties, or of any disgraceful conduct*

*Removal of member*

[1] Secs 110 to 181 are repealed in districts in which the Bengal Local Self Government Act of 1880 (Ben Act 3 of 1885) is in force—see s. 2 and Sch I of that Act, in Vol II of this Code

As to transfer of roads, bridges, channels, buildings and other property from District Road Committees and Branch Committees to District Boards and Union Committees, see the same Act, s 73.

(Part III — Constitution and Administration of the District Road Fund —  
Chapter IX — The District Road Committee — Secs 115-121)

*Member who neglects to attend meetings, or is sentenced to imprisonment, to cease to be member*

*Appointment of ex officio members*

*Members holding salaried offices under Government not to exceed one third*

*Proceedings not to be invalidated by reason of excessive proportion of officials*

*Chairman and vice-chairman Committee to have an office*

*Two kinds of meetings*

*What are special meetings.*

[1] **115** Any member who, without having obtained permission from the committee, shall have omitted to attend six consecutive meetings of the committee,

and any member who shall have been sentenced to imprisonment, shall cease to be a member of the committee

[1] **116** In addition to the members appointed or elected as aforesaid, the Lieutenant Governor may appoint any officer of Government to be a member of the committee, and may direct, by a writing signed by him, that all persons holding the offices in such writing specified shall be ex-officio members of the committee for any district in which they exercise the said offices, and in which this Act shall have come into force

Provided that the number of members of the committee holding salaried offices under the Government shall not be more than one-third of the total number of the committee

[1] **117.** No act or proceedings of the committee shall be invalidated by reason that at the time of doing such act or taking such proceedings the number of members of the committee as then existing, who were holding salaried offices under the Government, was greater than the proportion mentioned in the last preceding section, and no act or proceedings of any meeting shall be invalidated by reason of the proportion of members holding such salaried offices as aforesaid present at the same being greater than as provided by the said section

*Their mode of transacting Business*

[1] **118.** The Collector of the district shall be the chairman of the committee, and the vice-chairman shall be appointed as provided in section 129

[1] **119.** The committee shall have an office within the district in and for which they shall have been appointed, and shall meet for the transaction of business at least once in every quarter of a year

[1] **120.** There shall be two kinds of meetings for the transaction of business, namely, special meetings and ordinary meetings.

[1] **121.** Meetings of the following descriptions shall be special meetings —  
(1) any meeting convened by the chairman under section 123,

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[1] As to the local repeal of ss 115 to 121, see foot note on p 145, ante.

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THE CESS ACT, 1880

*(Part III — Constitution and Administration of the District Road Fund —  
Chapter IX — The District Road Committee — Secs 122-125 )*

- (2) for the election of a vice-chairman under section 129,
- (3) for determining the salary of the engineer under section 131,
- (4) for the election of an engineer under section 132,
- (5) for determining the details of establishment, and the salaries to be attached to each office, under section 133,
- (6) for making rules for leave of absence under section 134, and for pensions and gratuities under section 135,
- (7) for considering and passing the general statement under section 141 or any revised or supplemental statement under section 143,
- (8) for preparing and framing an estimate of income and expenditure, and for determining the rate of road cess for the coming year under sections 146 and 148,
- (9) for amending any such estimate under section 157,
- (10) for receiving and considering the annual report and accounts under section 179,

*All other meetings shall be ordinary meetings*

[1] **122.** *The chairman, or, in case of his absence at the time appointed for the meeting, the vice chairman, shall preside at every meeting of the committee. In the absence of both the chairman or vice-chairman, the members present may choose one of their number to be president of such meeting*

*President at meetings*

[1] **123.** *The chairman, or, in case of his absence, the vice-chairman, may, whenever he thinks fit, and shall, upon a requisition made in writing and signed by not less than one-third of the members, convene a meeting.*

*Meeting to be called on requisition*

[1] **124.** *At least ten days' notice shall be given of every meeting. Every notice shall state the business to be transacted at the meeting proposed to be called, and no business other than that so stated shall be transacted at such meeting, except with the permission of the meeting.*

*Notice of meeting.*

[1] **125.** (1) *No business shall be transacted at any special meeting unless at least one-fourth of the total number of members forming the committee at the time of the meeting are present at the commencement and close of such business, and no business shall be transacted at an ordinary meeting unless at least three members are so present.*

*Quorum*

(2) *The committee may delegate any of their powers to sub-committees consisting of such member or members of their body as they think fit. Any sub-committee so formed shall, in the exercise of the powers delegated,*

*Delegation of powers to sub-committee.*

[1] As to the local repeal of ss. 122 to 125, see foot-note on p 145 ante

(Part III—*Constitution and Administration of the District Road Fund*—  
Chapter IX—*The District Road Committee*—Secs 126-129 )

conform to any regulations that may be imposed on them by the committee

*Adjournment,  
voting, etc.,  
of committee*

(3) The committee may hold meetings and adjourn as they think proper. Questions at any meeting shall be determined by a majority of votes of the members present, and, in case of an equal division of votes, the president shall have a second or casting vote

*Adjourned  
meeting*

[1] 126. If at the time appointed for a special meeting, or within one hour thereafter, a quorum is not present, the meeting shall stand adjourned till some future day to be appointed by the chairman or vice chairman of the committee, and ten days' notice of such adjourned meeting shall be given. The members present at such adjourned meeting shall form a quorum, whatever their number may be

*Minute book  
to be kept*

[1] 127. The minutes of the proceedings of every meeting shall be recorded in a book to be kept for that purpose in the office of the committee, and any person resident in, or owning or holding land in, the district may at all reasonable times inspect and examine such book without payment of any fee, and may obtain a certified copy of any extract therefrom on payment of such fees as the Lieutenant-Governor may direct

At the request of any member of the committee who is not acquainted with the English language, the chairman shall cause to be delivered to such member an abstract of the minutes of any meeting in the vernacular of the district

*Correspondence  
between  
committee  
and Lieutenant  
Governor*

[1] 128. All correspondence between the committee and the Lieutenant-Governor shall pass through the office of the Commissioner, who in all things under this Part shall be subject to the control and supervision of the Lieutenant-Governor

*Committee to  
furnish in  
formation*

The committee shall furnish the Lieutenant Governor and the Commissioner respectively with any information for which they may call, connected with the duties imposed upon them by this Act

*Their Vice-Chairman, Engineer and Establishment*

*Appointment  
of vice  
chairman.*

[1] 129. The first meeting of the committee shall be convened by the chairman at such time as he shall think fit, and shall proceed to nominate one of the members of the committee to be vice-chairman of the committee, and shall

[1] As to the local repeal of ss 126 to 129, see foot note on p 143, ante

As to continuance in office of persons employed under Ben Act 9 of 1880, or the grant of a compensation pension or gratuity to them, see s 3 of the Bengal Local Self Government Act of 1885 (Ben Act 3 of 1885), in Vol. II of this Code



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THE CESS ACT, 1880

(Part III — Constitution and Administration of the District Road Fund —  
Chapter IX — The District Road Committee — Secs 130-132)

- submit to the Lieutenant-Governor the name of the person so nominated, whereupon the Lieutenant-Governor may, if he think fit, appoint such person to be vice chairman of the committee, or may require the committee to nominate and to submit to him the name of some other person, and whenever the office of vice-chairman shall be vacant a vice-chairman shall be nominated and appointed in the manner above mentioned

Provided that whenever the office of vice-chairman shall become vacant, the chairman may, with the approval of the Commissioner, appoint any member of the committee to be vice chairman thereof ad interim until the vacancy shall have been filled up by appointment as above provided

Vice chair  
man may be  
appointed  
ad interim

The vice-chairman may hold office for a period not exceeding two years, and at the expiration of that time may be re-nominated by the committee and re-appointed to the office by the Lieutenant-Governor

Vice chair  
man may hold  
office for  
two years

[1] 130. The Lieutenant-Governor may, if he think fit, upon the recommendation of two-thirds of the members voting at any special meeting, remove the vice chairman, and any member entitled to vote may give a proxy in writing to any other member for the above purpose

Removal of  
vice chair  
man

Such proxy shall be produced at the time of voting, and shall entitle the member to whom it is given to vote as authorized by the tenor of such proxy

Proxies  
allowed

[1] 131. The committee at a special meeting shall determine the salary which they are prepared to give to the district engineer, and shall report the same to the Lieutenant Governor, who may approve of such salary or require the committee to increase or to reduce the same. In determining such salary regard shall be had in each district to the character of the works and the nature of the duties required therein. The salary so determined and approved may from time to time be altered by the committee with the approval of the Lieutenant-Governor

Salary of  
district  
engineer

[1] 132. (1) Whenever the office of district engineer shall be vacant, the committee shall represent the occurrence of such vacancy to the Lieutenant-Governor, who shall thereupon cause a list of qualified officers not being less than three in number to be laid before the committee, and the committee shall proceed to elect a district engineer from the persons named in such list.

Appointment  
of engineer

(2) All appointments of district engineers existing at the time of the commencement of this Act shall hold good for a period not exceeding two years

Existing  
appointments  
to hold good

[1] As to the local repeal of ss. 130 to 132, see foot note on p 145, ante.

(Part III—Constitution and Administration of the District Road Fund—  
Chapter IX—The District Road Committee—Secs 133 134)

*for two years only* from such commencement, and on the expiration of such time every office of district engineer to which the last appointment shall have been made before the commencement of this Act shall be deemed to be vacant, and a district engineer shall be appointed in manner above prescribed

Provided that, if the Lieutenant-Governor and the committee are satisfied that no change is required, any person holding the appointment of district engineer at the time of the commencement of this Act may, with the sanction of the Lieutenant-Governor, be re-appointed by the committee to be district engineer

*Engineer may be suspended or dismissed by Lieutenant Governor*

(3) The district engineer may be suspended, removed or dismissed from his office by the Lieutenant-Governor

*Establishments and salaries how to be fixed*

[1] 133 The committee, subject to the limit of cost imposed by section 135, may, with the sanction of the Commissioner, determine, and from time to time alter, the details of the establishment of officers (other than the district engineer), clerks and servants to be employed by them or by any branch committee as hereinafter appointed, and the salary to be paid to each such officer, clerk or servant

Provided that no salary exceeding Rs. 200 a month shall be attached to any office without the express sanction of the Lieutenant-Governor

*Appointment how to be made*

Appointments to offices on the establishment so determined shall be made as follows—

to every office of which the salary does not exceed Rs. 50 per mensem by the chairman of the committee or of the branch committee, as the case may be,

to every office of which the salary exceeds such amount, by the committee or the branch committee, as the case may be, with the approval of the Commissioner

Any such officer, clerk or servant as aforesaid may be suspended or dismissed by the authority appointing him, subject to an appeal to the Commissioner, whose decision shall be final.

*Leave of*

[1] 134. The committee shall make such rules as to leave of absence and

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(Part III—Constitution and Administration of the District Road Fund—  
Chapter IX—The District Road Committee—Secs 135-138 )

absentee allowances as they from time to time may think fit for their own officers and servants, as well as for those of any branch committee absence to officers

Provided that, in the case of district engineers drawing a salary of Rs 200 or upwards per mensem, leave of absence on medical certificate may be granted by the Lieutenant-Governor in accordance with the rules contained in Supplement F of the Civil Leave Code, or any other rules [1] for the time being in force for uncovenanted officers of Government, and that no other leave of absence shall be granted to a district engineer by the committee without the sanction of the Lieutenant-Governor

[2] 135 The aggregate salaries and absentee allowances of the engineers, officers, clerks and servants aforesaid, entertained by any district road committee and by all branch committees in any district together with the expenses of the Collector's establishments under section 91, and the amount which such district road committee is required to pay under section 181, shall not for any one year, without the express sanction of the Lieutenant-Governor, exceed one-fourth of the income of the committee for the said year exclusive of the balance of the previous year Salaries not to exceed one-fourth of income

[2] 136. The Lieutenant-Governor may, on the application of two thirds of the committees in any division, appoint a divisional superintendent of works with the necessary office establishment, for the control and supervision of the executive works establishment in all districts of such division, and may determine the proportion of the cost payable by each district in the division in respect of the same. Appointment of divisional superintendent of works

[2] 137. The Lieutenant-Governor may, on the application of any number of districts, whether forming part of the same division or otherwise, appoint a superintendent of works and establishment as aforesaid for such districts, and determine the proportion of the cost payable by each such district in respect of the same Appointment of superintendent of works for group of districts

[2] 138. The committee may with the approval of the Lieutenant-Governor make rules for pensions and gratuities to be granted and paid out of the district road fund to their officers and servants, and to those of any branch committee, and to the members of any establishment appointed by the Collector of the district under section 91, and may from time to time, with such approval, repeal, alter or add to such rules: Pensions, gratuities, etc

[1] See now the Civil Service Regulations

[2] As to the local repeal of ss. 135 to 138, see foot-note on p 145, ante.

(Part III—Constitution and Administration of the District Road Fund—  
Chapter IX—The District Road Committee—Secs 139, 140)

*Provided that no officer shall be entitled to any pension or gratuity under this Act from the road fund of any district in respect of any period during which he was not serving under the committee of such district, or under the Collector of such district on an establishment entertained under section 91 for the purposes of this Act*

*Provided also that no officer lent by Government and contributing from his salary to any pension fund shall be entitled to claim any pension from the district road fund*

*Their Functions*

*Modes of executing contracts*

[1] The committee may, through their chairman or vice chairman, enter into and execute any contract necessary for the purposes of this Act

*Provided that every contract made on behalf of the committee in respect of any sum exceeding five hundred rupees, or which shall involve a value exceeding five hundred rupees, shall be sanctioned by the committee and shall be in writing and signed by at least two of the members of the committee, one of whom shall be the chairman or vice-chairman*

*Unless so executed, such contract shall not be binding on the committee*

*Penalty on members and officers being pecuniarily interested in contracts*

[1] 140 No member, officer or servant of the committee shall be in anywise pecuniarily interested in any contract or work made with, or executed for, the committee, and, if any such member, officer or servant be so interested, he shall be incapable of afterwards continuing to be a member of the committee or holding or continuing in any office or employment under the committee, and shall be liable on conviction thereof to a fine of five hundred rupees

*Exception*

*Provided that nothing in this section shall apply to any person by reason only of his being a shareholder in any company incorporated by Act of Parliament or by Royal Charter or otherwise, or registered under any Act for the registration of joint stock companies, passed by the Parliament of the United Kingdom, or by any Indian Legislature, which may enter into any contract with the committee, or execute any work for the committee, if such person shall, at or before the time of any such contract being made or tendered for, declare to the committee the extent of his interest in such company, and, if he be an officer or servant of the committee, obtain the sanction of the committee to his continuing to be such officer or servant.*

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[1] As to the local repeal of ss. 139 and 140, see foot note on p. 145, ante.

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THE CESS ACT, 1880

(Part III — Constitution and Administration of the District Road Fund —  
Chapter IX. — The District Road Committee — Secs 141-147)

[1] **141.** On the commencement of this Act in any district or part of a district, the vice-chairman, within three months after his election, shall cause to be prepared a general statement of the roads, bridges, water-channels and other means of communication to be brought within the operation of this Act within the three years then next ensuing, and the committee shall, at some meeting to be held within one month after the submission of such statement or at any adjourned meeting, take such statement into consideration, and may pass such statement, or may make such alteration or addition therein as it shall think fit. Such statement shall be prepared with due advertence to the provisions of section 109.

Statement of communications to be prepared

[1] **142.** The committee shall forward the statement which shall be passed as provided in the last preceding section to the Commissioner for transmission to the Lieutenant-Governor.

Statement to be forwarded to Commissioner

[1] **143.** The vice-chairman may in any subsequent year cause to be prepared a supplemental statement of the kind mentioned in section 141 or a revised statement, and every such supplemental or revised statement shall be subject to the provisions of the last two preceding sections with respect to the statement therein mentioned.

Supplemental statement

[1] **144.** The Lieutenant-Governor may at any time order that any road, bridge, water channel or other means of communication as abovementioned be included in, added to, or excluded from, any statement or supplemental or revised statement prepared as mentioned in section 141 or 143.

Lieutenant Governor may include or exclude any works in or from statement

*Estimates Determination of the Rate for the Year, and Publication thereof.*

[1] **145.** The Collector shall, at such date as the committee shall fix, prepare and deliver to the committee a statement showing under separate heads the estimated proceeds for the year then next ensuing of the road cess at the maximum rate hereinbefore provided, and also of any sum and of any sources of revenue for the said year which the Lieutenant-Governor shall have assigned to the said district, or which may be otherwise at the disposal of the committee.

Collector to submit to committee annual statement of estimated assets for coming year

[1] **146.** The committee shall, at some meeting to be held in such month as the Lieutenant-Governor shall determine, prepare an estimate of the income and expenditure of the committee for the year then next ensuing.

Annual estimate to be prepared

[1] **147.** Notwithstanding that any work has been included in such estimate, the committee shall not begin the execution of any work until detailed specifications and estimates of the same have been passed, or until the execution of

Works not to be executed until estimates passed

[1] As to the local repeal of ss. 141 to 147, see foot note on p. 145, ante.

(Part III — Constitution and Administration of the District Road Fund —  
Chapter IX — The District Road Committee — Secs 148-151)

or execution  
sanctioned

*the work shall have been otherwise sanctioned by any authority whose sanction to the execution of such work is required under any rules made by the Lieutenant-Governor on that behalf as hereinafter provided*

Committee to  
determine  
rate of road  
cess

[1] 148. In making the estimate of income as by the last section required, the committee shall take into consideration any sum and the proceeds of any source of revenue which shall have been placed at their disposal by the Lieutenant-Governor, or which may otherwise be available to them, and any unexpended balance of the district road fund of the previous year which is expected to be available for expenditure in the year of estimate, and shall proceed to determine the rate at which it will be necessary to levy the road cess for the last mentioned year, so as to provide the further amount estimated to be required for expenditure in the said year

Limit of  
estimate

[1] 149. The total amount proposed to be expended in any one year in and by any estimate prepared as required by section 146 shall not exceed the proceeds estimated to be at the disposal of the committee for that year from the road cess, if levied within the district at the maximum rate at which such cess is leviable as mentioned in section 6, together with any sum, and the annual proceeds of any source of revenue which shall have been placed by the Lieutenant-Governor at the disposal of the committee, or which may be otherwise at their disposal, and with the estimated unexpended balance of the district road fund of the previous year as above mentioned

Commissioner  
may raise  
estimate

[1] 150. Every such estimate prepared by the committee under section 146 shall be forwarded through the Collector of the district to the Commissioner, and the Commissioner may approve such estimate and the rate determined by the committee

Commis-  
sioner may  
under certain  
circumstances  
alter  
estimate

[1] 151. If such estimate shall have been approved by any number, being less than two-thirds, of the members of the committee present at the meeting at which such estimate was adopted, the Commissioner may, before approving of such estimate, make such alterations as he shall think fit in the details or total of such estimate, or may return such estimate to the committee with instructions to make any such alterations in such details or total.

*Provided that the Commissioner shall not make, and shall not require the committee to make, otherwise than with their own consent, any such alterations as shall have the effect of raising the total of such estimate above the total of the sum estimated to be at the disposal of the committee for expenditure during*

[1] As to the local repeal of ss. 148 to 151, see foot-note on p. 145 ante

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(Part III — Constitution and Administration of the District Road Fund —  
Chapter IX — The District Road Committee — Secs 152, 153 )

the year in question, the cess being levied at the rate which may have been determined for such year by the committee under section 148

On receipt of such instructions the committee shall proceed to make such alterations, and shall re-submit the estimate to the Commissioner, who shall thereupon approve of the estimate and of the rate determined by the committee

[1] 152. (1) If any estimate prepared under section 146 shall have been approved by any number, not being less than two thirds, of the members of the committee present at the meeting at which such estimate was adopted, the Commissioner may, before approving of such estimate, make a communication to the committee, bringing to their notice any alterations which it appears to him to be desirable to make in the details or total of such estimate,

*Procedure where estimate has been approved by not less than two thirds of committee*

and, on receipt of such communication, the committee shall proceed to reconsider such suggestions, and may either—

(a) adopt such suggestions or any of them and revise their estimate accordingly, and, if necessary, the rate determined by them as that at which the cess shall be leviable during the coming year, and submit such revised estimate and rate for the sanction of the Commissioner, or

(b) may adhere to their original estimate, and re-submit it to the Commissioner with their reasons for adhering to the same

(2) On receipt of such estimate so re-submitted, the Commissioner may either sanction the estimate and rate as determined by the committee, or may submit such estimate, together with the reasons recorded by the committee for adhering to the same, to the Lieutenant-Governor

[1] 153 Whenever any such estimate shall be so submitted by the Commissioner, the Lieutenant-Governor may approve of such estimate, or pass such orders as he shall think fit, in respect to the alteration of the details or of the total of such estimate.

*When estimate is submitted by Commissioner, Lieutenant-Governor may pass orders thereon.*

Provided that the Lieutenant-Governor shall not make any such alterations, or require the committee to make any such alterations, as shall have the effect of raising the total of such estimate above the total of the sum estimated to be at the disposal of the committee for expenditure during the year in question, the cess being levied at the rate which may have been determined for such year by the committee under section 148, unless such rate shall in the

[1] As to the local repeal of ss. 152 and 153, see foot note on p. 145, ante.

(Part III—Constitution and Administration of the District Road Fund—  
Chapter IX—The District Road Committee—Secs 154 157 )

opinion of the Lieutenant-Governor be insufficient to provide for the proper maintenance of such works as are contained in the statement prepared under sections 141 or 143

If it shall appear to the Lieutenant Governor that the proceeds of the cess at the rate so determined will not suffice for such purpose, the Lieutenant-Governor may order that the cess shall be levied for the year in question at such rate as he may deem sufficient for such purpose, subject to the limit in section 6 provided

Rate determined to be reported to Lieutenant Governor

[1] 154. When the estimate prepared and the rate determined by the committee shall have been approved by the Commissioner under sections 150, 151 or 152, the rate so determined and approved shall be reported by the Commissioner to the Lieutenant-Governor, who shall forthwith cause the same to be published in the Calcutta Gazette

Rate to be published in Gazette

[1] 155. When the Lieutenant-Governor shall under section 153 have approved of any estimate submitted to him as provided by section 152 and of the rate determined by the committee under section 143, or under clause (a) of section 152 in connection with such estimate, or when the Lieutenant-Governor shall under section 153 have ordered that the cess shall be levied at any other rate, the Lieutenant-Governor shall cause such rate as finally fixed by him to be published in the Calcutta Gazette

Rate published to be rate in force for year

[1] 156. The rate published in the said Gazette as provided in either of the last two preceding sections shall be the rate at which the road cess shall be leviable in the district for the year in respect of which such rate is so published, and the Collector of the district shall cause such rate to be published and proclaimed throughout the district and notice be given thereof as in section 40 is provided

Estimates may be amended.

[1] 157. Any estimate prepared under section 146 and approved as hereinbefore provided may be amended or revised at any time with the sanction of the authority who originally approved of such estimate

Provided that the total of the estimate of expenditure as amended shall not exceed the total of the sums estimated to be available for expenditure during the year.

[1] As to the local repeal of ss. 154 to 157, see foot-note on p 145, ante



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(Part III—Constitution and Administration of the District Road Fund—  
Chapter X—Branch Committees—Secs 158-163)

## CHAPTER X

### BRANCH COMMITTEES

[1] 158 In any district to which this Act shall have been extended, the Lieutenant-Governor may, in addition to a district road committee, form as many branch committees as he shall think fit for carrying out the purposes of this Act, and shall appoint a chairman and vice chairman thereof respectively and shall define the portion of such district within which any branch committee shall exercise the powers conferred and discharge the duties imposed upon them by this Act

Branch committees

Provided that, whenever the office of vice-chairman of any branch committee shall become vacant, the chairman thereof may, with the approval of the Commissioner, appoint any member of such branch committee to be vice chairman thereof ad interim until the vacancy shall have been filled up by the Lieutenant-Governor

[1] 159 The provisions of sections 112 to 117 (both inclusive), 119, 122 to 127 (both inclusive), 139 and 140, respecting district road committees, shall apply, so far as the same are applicable, to such branch committees

Sections which apply to them

[1] 160 The Lieutenant Governor may remove the chairman or vice-chairman of a branch committee whenever he shall think fit

Chairman and vice chairman may be removed

[1] 161 Every branch committee may from time to time select any member thereof to be an additional member of the district road committee, and such member shall thereupon, for the space of one year, become a member of the said committee.

Member of branch committee may be additional member of district committee

[1] 162 Every such branch committee shall be, except as hereinafter provided subordinate to the district road committee, and shall forward to the committee such statements, suggestions and estimates as it may think fit, and the committee shall consider and have regard to such statements, suggestions and estimates in framing the statements and estimates hereinbefore directed

Branch committee's statements

[1] 163. Any such branch committee may require that any such statement, suggestion or estimate shall be submitted to the Commissioner for his consideration and for that of the Lieutenant-Governor

Branch committee may require statement to be submitted to Lieutenant Governor

[1] As to the local repeal of ss 158 to 163, see foot-note on p 145, ante  
As to the transfer of roads, bridges, channels, buildings and other property from District Road Committees and Branch Committees to District Boards and Union Committees, see the Bengal Local Self Government Act of 1885 (Ben Act 3 of 1885), s. 73, printed in Vol II of this Code

(Part III—*Constitution and Administration of the District Road Fund—*  
*Chapter X—Branch Committees—Secs 164-168*)

*Funds of  
the branch  
committee*

[1] **164** *The Lieutenant-Governor may in each year assign to any branch committee so much of the road fund levied for that year in the district, for portion of which such branch committee is appointed, as he may think fit, not exceeding the total estimated proceeds of the road cess leviable within the same portion of the district, and, further, may allot to the said branch committee so much of the income of the district road fund from other sources as he shall think fit*

*Special  
powers  
of the branch  
committee*

[1] **165** *The Lieutenant-Governor may in any such case declare that the branch committee shall have the full powers of a district road committee within such portion of the district, and, whenever the Lieutenant-Governor shall so have declared, the district road committee shall, within such portion of the district, cease to exercise powers and functions under sections 133, 139, 141, 142, 143 and 146. Such powers shall then vest in the branch committee, and the provisions of sections 120, 121 [with the exception of clauses (2), (3), (4) and (6)] 128, 142, 144 and 147, shall apply to the proceedings of such branch committee, provided that all correspondence with the Commissioner shall be submitted through the Collector of the district, in any case in which the Lieutenant-Governor may declare that a branch committee shall have the powers of a district road committee for specified works or specified purposes only, the powers of the district road committee in respect of such works and such purposes only shall cease within the said portion of the district, and such powers shall then vest in the branch committee*

*Their estimates*

[1] **166** *Every branch committee so vested with powers as in the last preceding section provided shall prepare an estimate in regard to their annual income and expenditure similar to that required by section 146 to be prepared by the district road committee*

*Limit of  
estimates.*

[1] **167** *The provisions of sections 150, 151, 152, 153 and 157, shall, as far as they are applicable, apply to such estimate*

*Provided that the aggregate amount to be expended by the branch committee in any year should not exceed the aggregate of the fund placed at their disposal for that year*

*Lieutenant-  
Governor  
may assign  
functions of  
Chapter XI*

[1] **168** *The Lieutenant-Governor may at any time order that any of the functions hereafter mentioned or referred to in Chapter XI shall be discharged by any branch committee instead of by the district road committee in*

of 1880 ]

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(Part III—*Constitution and Administration of the District Road Fund*—  
Chapter X—*Branch Committees*—Chapter XI—*Disbursement and Ac-*  
*counts of the District Road Fund*—Secs 169-172)

- respect of any portion of the district for which such branch committee has been appointed

to branch  
committee

[1] 169. The Lieutenant-Governor may at any time revoke an order forming any branch committee or an order declaring that a branch committee shall exercise the full powers or any special powers of a district road committee

Lieutenant  
Governor  
may revoke  
order form-  
ing branch  
committee

## CHAPTER XI

### DISBURSEMENT AND ACCOUNTS OF THE DISTRICT ROAD FUND

[1] 170. The district road fund shall be lodged with the Collector of the district, who shall keep a separate account thereof, and shall cause to be prepared an annual statement of such account, showing in detail therein all sums paid into and all disbursements made from the treasury on account of the district road fund during the year

Collector to  
prepare an-  
nual state-  
ment of the  
district road  
fund

After the appointment of any branch committee in a district, the Collector of the district shall in like manner keep a separate account of the fund placed at the disposal of such branch committee

[1] 171. All payments on account of the district road fund shall be made by the Collector out of the said fund upon cheques signed by the vice-chairman for sums not exceeding one hundred rupees. When the vice-chairman is absent or from any cause incapacitated from signing, the chairman may sign such cheques on behalf of the vice-chairman

Payments on  
account of  
the district  
road fund

Cheques for sums exceeding one hundred rupees shall be signed by the chairman and the vice-chairman. When the vice-chairman is absent or from any cause incapacitated from signing, such cheques shall be signed by any ex officio member of the committee other than the chairman, on behalf of such vice-chairman.

The word "chairman" in this section includes any officer for the time being in charge of the office of chairman under a written order from the chairman

[1] 172. The Collector shall forward to the vice-chairman of every committee as soon as possible after the close of each month, an account of his receipts and disbursements on account of the district road fund during such month

Collector's  
monthly  
account

[1] As to the local repeal of ss 169 to 172, see foot note on p 145, ante

*(Part III—Constitution and Administration of the District Road Fund—  
Chapter XI—Disbursement and Accounts of the District Road Fund—  
Secs 173 179)*

*Accounts of  
committee*

[1] 173. Every committee shall keep regular and detailed accounts of the moneys received or applied by them under the provisions of this Act and of their application, and such accounts shall be, at all convenient times, open to the inspection of all members of the committee

*Committee to  
appoint a  
sub com  
mittee to  
audit ac  
counts*

[1] 174. Every committee shall appoint a standing sub-committee, consisting of the vice chairman and not less than two other members, for the audit of their accounts, and the accounts of each month shall be laid before the sub-committee as soon as possible after the close of such month, whereupon the said sub-committee shall proceed to audit the said accounts in such manner as the Lieutenant-Governor may direct, and to pass or to amend and correct the said accounts as may be necessary, and to pass them as so amended and corrected

*Sub commit  
tee may call  
for vouchers  
and papers*

[1] 175 For the purposes of every audit and examination of accounts under this Act such sub-committee shall have power to call for all vouchers and papers which they may require

*and certify  
correctness of  
accounts*

[1] 176 When such sub-committee shall have audited and passed the accounts of any month as above provided, they shall certify the result and the correctness of the accounts as passed by them in such form as the Lieutenant-Governor may direct

*Accounts to  
be submitted  
to officer  
directed by  
the Lieuten  
ant Governor*

[1] 177 The accounts of each month, audited, passed and certified as in the last preceding section provided, shall be submitted by the committee, not later than the twenty fifth day of the following month to such officer as the Lieutenant-Governor may direct

*Vice chair  
man to pre  
pare account  
of receipts  
and a report.*

[1] 178 As soon as possible after the close of each year, the vice-chairman of every committee shall prepare a detailed account of the receipts and expenditure of the district road fund during such year, and also a report of the work done and in progress during such year, whether under the directions of the district road committee or of any branch committee other than a branch committee which has been vested with the full powers of a district road committee under section 165

*Accounts to  
be certified by  
sub-com  
mittee and  
transmitted to  
Lieutenant-  
Governor*

[1] 179. The annual accounts so prepared by the vice-chairman shall be examined and certified by the sub-committee of audit, and, after such examination and certification, shall be laid with the said annual report before a special meeting of the committee to be held within two months of the close of such

[1] As to the local repeal of ss 173 to 179, see foot note on p. 145, ante.

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(Part III—Constitution and Administration of the District Road Fund—  
Chapter XI—Disbursement and Accounts of the District Road Fund  
Chapter XII—Miscellaneous—Secs 180, 181)

year, and the committee shall submit a copy of the said account with a similar report to the Commissioner for transmission to the Lieutenant-Governor, who shall cause such accounts with an abstract of such report, together with such remarks as the Commissioner may have made thereon, to be published in the Calcutta Gazette

[1] 180 Every district road committee may from time to time make, and when made, alter, add to or cancel, bye-laws not inconsistent with the provisions of this Act, for all or any of the following purposes, that is to say—

(1) regulating the traffic and providing for the safety and convenience of passengers on any road, water-channel or other means of communication under the charge of the committee,

(2) providing for the preservation of such roads, water-channels and other means of communication, and of the trees planted by, or under the charge of, the committee

The committee may make bye laws with approval of Lieutenant Governor

On conviction before a Magistrate a fine may be imposed for the breach of any such bye-laws Fines

Provided that no fine exceeds for any offence the sum of ten rupees or, in the case of a continuing offence, the sum of two rupees for every day during which such offence is continued

Any bye-law so made, and every alteration of, addition to and cancellation of such bye-law, shall require the sanction of the Lieutenant-Governor,

and, on such sanction being given, such bye-law shall be published in the Calcutta Gazette and in the vernacular of the district, as the Lieutenant-Governor may direct, Bye laws to be published in Gazette

and on such publication such bye-law shall have the force of law.

## CHAPTER XII

### MISCELLANEOUS.

[1] 181. The Lieutenant-Governor may from time to time direct that such establishments shall be entertained, and such expenses incurred, in the offices of the Board of Revenue, of the Commissioners of divisions and of the Superintending Engineers, in any other office of control, in any office of account

Lieutenant-Governor may give directions as to establishments, expenses, &c.

[1] As to the local repeal of ss. 180 and 181, see foot note on p 145, ante.

*and in any treasury, or that such special officers shall be employed and such expenses incurred by them, as may be necessary,*

*for the exercise of proper control over the proceedings of the Collectors and district road committees and branch committees in the discharge of their duties under this Act,*

*for the proper examination and checking of estimates furnished and accounts kept under this Act, and for the proper audit of such accounts,*

*and for the performance of the duties connected with the cash transactions of the district road committees*

*and the Lieutenant-Governor may make rules providing for the recovery of the cost of the establishments so entertained and the officers so employed, and of the expenses so incurred, from the several district road committees in such proportions as he may think fit*

*Provided that the total amount which any district road committee is required to pay under this section shall not in any year exceed two per centum on the income of such committee for such year*

## PART IV

### CHAPTER XIII

#### GENERAL

Lieutenant Governor empowered to prescribe forms and rules

**182** The Lieutenant-Governor may from time to time make, and when made, from time to time alter, add to or cancel, any rules not inconsistent with the provisions of this Act,—

[1](a) *regulating the performance of the duties of the district road committees and branch committees, and of all persons employed under this Act, and in regard to the qualification, appointment, election and discharge of such persons,*

[1](b) *prescribing the authorities by whom the execution of works of different classes respectively may be authorised and sanctioned,*

[1](c) *prescribing forms for the estimates, accounts, reports and statements required by this Act to be kept or made by the district road committee,*

(d) *prescribing forms of accounts to be kept by the Collector under this Act,*

[1] Cls. (a), (b) and (c) of s. 182 are repealed in districts in which the Bengal Local Self Government Act of 1885 (Ben. Act 3 of 1885) is in force— see s. 2 and Sch. I of that Act, in Vol. II. of this Code.

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(Schedule A)

[1] (e) providing for the submission and checking of any estimates or accounts and for the audit of such accounts as aforesaid,

(f) fixing the dates for payment of instalments of cess under sections 42 and 57,

[1] (g) determining the amount of fees to be levied for supplying copies of proceedings of any district road committee or branch committee as provided in section 127,

[1] (h) fixing the month in which the meeting mentioned in section 146 shall be held,

(i) and generally for the purposes of this Act

Such rules shall be published in the Calcutta Gazette, and shall thereupon have the force of law

### SCHEDULE A

*Form of Return prescribed by Section 14*

Amount of Government revenue or rent payable by the estate or tenure

Rs A. P

#### PART I

District

Name by which the estate or tenure is known, and the number which it bears on the Collector's general register, or on any other register kept by the Collector—

Details of lands in the actual occupation or cultivation of the person submitting the return —

1	2	3	4	5
Pargana	Name of village and thána in which the lands are situate	Area of land, [2] [if known]	Deduct area of land situate within any municipality	Annual value of remaining land

[3] NOTE—In the body of this statement should be entered only nijjot lands and such uncultivated lands in the use and occupation of the maker of the return as are capable of assessment on their annual value

[1] Cls (e), (g) and (h) of s. 182 are repealed in districts in which the Bengal Local Self-Government Act of 1885 (Ben Act 3 of 1885) is in force—see s 2 and Sch. I of that Act in Vol. I of this Code

[2] These words in square brackets in the heading of column 3 of Part I were inserted by Ben. Act 2 of 1881, s 11, printed *post*, p. 172

[3] This note to Part I was substituted for the original note by Ben Act 2 of 1881, s. 11, printed *post*, p 172 The original note ran thus —

"NOTE—Only nijjot lands and unculturable unlet lands should be included in this Part"

## (Schedule A)

## PART II

District

Name and number of estate or tenure as in Part I

Details of lands held by cultivating rayats paying direct to the persons submitting the return —

1	2	3	4	5	6	7
Pargana	Name of village and thána in which the lands are situate	Name of rayat, name of village thána and district in which he resides	Area occupied [1] [if known]	Annual rent	Deduct rent of land included in any municipality	Balance of net rent assessable

## PART III

District

Name and number of estate or tenure as in Part I

Details of the tenure-holders paying to the person submitting the return —

1	2	3	4	5	6	7	8
Name of tenure holder and person paying rent for him borne on the books of holder of estate or tenure	Name of village, thána and district in which such person resides	Name of village and thána in which tenure is situated	Name of village and thána in which mal outcherry is situate	Area, if known	Annual rent paid by tenure holder	Deduct rent of land included in any municipality	Balance of net rent assessable

## PART IV

District

Name and number of estate or tenure as in Part I

Details of lands included in the estate or tenure of the person submitting

[1] These words in square brackets in the heading of column 4 of Part II were added by Ben. Act 2 of 1881, s. 12, printed *post*, p. 172.



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(Schedule B)

the return which are held by others than himself, but for which no rent is paid —

1	2	3	4	5	6	7
Pargana in which situate	Name of village and thana in which situated	Name of holder, and owner, if known	Name of village, thana and district in which the holder resides	Area, if known	Deduct area of land included in any municipality	Annual value of remaining land

I, X Y Z., do declare that the statements contained in the above return are true to the best of my knowledge, information and belief

Signed \_\_\_\_\_

*N B—This return must be signed by the holder or his authorized agent, whose address must also be given*

SCHEDULE B

FORM No I.

*Form of Notice upon a Revenue-paying Estate or Rent-paying Tenure under Section 17*

District of

NOTICE UNDER SECTION 17 OF THE CESS ACT, 1880

THE holders of estate or tenure (*description to be filled in*) in the district of \_\_\_\_\_ and all others interested therein are hereby required to lodge in the office of the Collector of the said district a return, in the form hereunto annexed, of all lands comprised in such estate or tenure and the rents paid therefor. Such return must be signed by such holder or his authorized agent, and be so lodged within the time mentioned below under a penalty of a daily fine which may amount to fifty rupees on each such holder for every day after the expiry of such time or of any extended time which may be allowed by the Collector on application made to him, until such return shall be lodged. Notice is hereby given that no rents due to the holders of the said estate (*or tenure*) can be recovered by suit after such time until such return be so lodged.

*(Schedule B)*

If the annual amount of revenue or rent payable on the estate or tenure to which this notice refers does not exceed Rs 500, the holders are required to lodge the return within six weeks of the service of this notice

If such amount exceeds Rs. 500, within three months of such service

If for any good reason the holders will be unable to lodge the return within the time allowed, they should apply to the Collector for extension of such time

COLLECTOR'S OFFICE,

(Sd) A B,

*Dated*

*Collector*

*N B —To this notice shall be annexed forms of Parts I, II, III and IV of the return which is mentioned in Schedule A*

---

FORM No II

*Form of Notice upon a Revenue free Estate or Rent-free Tenure under Section 17*  
District of

NOTICE UNDER SECTION 17 OF THE CESS ACT, 1880.

The holder of the revenue-free estate or rent-free tenure (*description to be filled in*) in the district of \_\_\_\_\_ and all others interested therein are hereby required to lodge in the office of the Collector of the said district a return, in the form hereunto annexed, of all lands comprised in such estate or tenure. Such return must be signed by such holder or his authorized agent, and be so lodged within the time mentioned below under a penalty of a daily fine which may amount to fifty rupees on each such holder for every day after the expiry of such time or of any extended time which may be allowed by the Collector on application made to him until such return shall be lodged

Notice is hereby given that no rents due to the holders of the said estate (*or tenure*) can be recovered by suit after such time until such return be so lodged

If the gross annual rental of the estate or tenure to which this notice refers does not exceed Rs 500, the holders are required to lodge the return within six weeks of the service of this notice.

If the gross rental exceeds Rs. 500, within three months of such service

If for any good reason the holders will be unable to lodge the return within the time allowed, they should apply to the Collector for extension of such time

COLLECTOR'S OFFICE,

(Sd) A. B.,

*Dated*

*Collector.*

*N.B.—To this notice shall be annexed forms of Parts I, II, III and IV of the return which is mentioned in Schedule A*

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THE CESS ACT, 1880

(Schedule C)

SCHEDULE C

Form of Notice under section 33

• District of

NOTICE UNDER SECTION 33 OF THE CESS ACT, 1880

The owner, chief agent, manager or occupier of (*give the name by which the concern or property is known*) situated in the district of \_\_\_\_\_, is hereby required to lodge in the office of the Collector of \_\_\_\_\_ of \_\_\_\_\_ a return in the form hereunto annexed, showing the amount of land under cultivation at the date of this return in the said \_\_\_\_\_.

Such return must be signed by him and be lodged within the space of two months from the service of this notice (unless within the said two months such owner, chief agent, manager or occupier obtain from the Collector an extension of the said space of two months), under penalty of a daily fine of fifty rupees for every day after the expiry of such period or extension thereof until such return shall be presented.

*Form of return to be annexed to the Notice*

District

Details of lands acquired under any rules for the sale, lease, grant or clearance of waste lands or held direct from Government and used for the cultivation of tea, coffee or clove, under the control of the persons submitting the return —

1	2	3	4	5	6	7
Districts	Parganas and thanas	Designation by which the estate, lot or grant is known, and the number it bears on any register kept by the Collector	Name of owner, agent, manager or occupier	Entire area of land	Area or areas of lands under cultivation	Aggregate value at Rs. 10 per acre of land in [1] [column 6]
in which the lands lie						

I, X. Y. Z, do declare that the statements contained in the above return are true to the best of my knowledge, information and belief

Signed \_\_\_\_\_

*N.B — This return must be signed by the owner, chief agent, manager or occupier*

[1] This word and figure in square brackets in the heading of column 7 were substituted for the word and figure "column 5" by Ben. Act 2 of 1881, s. 13, printed *post*, p. 172.

## SCHEDULE D

*Form of Notice under section 52*NOTICE TO HOLDERS OF LANDS HELD RENT-FREE UNDER SECTION 52 OF THE  
CESS ACT, 1880

NOTICE is hereby given to all concerned that the lands specified in the annexed extracts from valuation-rolls of estates and tenures have been entered by the holders of such estates and tenures in the valuation returns of their estates and tenures under the Cess Act, 1880, and have been valued as shown in the extracts

Every owner and holder of any land entered in these extracts may appear before the Collector within one month of the publication of this notice, and may object to the amount at which his land has been valued

If no such objection is made, the owners and holders of lands will be bound to pay year by year to the holder of the estate or tenure in which his land has been entered the amount of road cess and public works cess calculated on the annual value of such land as entered in these extracts at the full rate which may be fixed for the year in the district

If any instalment of the cess due upon any of the lands included in these extracts is not paid to the holder of the estate or tenure on or before the date which the Lieutenant Governor may fix for the payment of such instalment, the holder of the estate or tenure will be entitled to recover double the amount due with interest and all costs of suit.

## SCHEDULE E

*Form of Notice under section 72.*

District of

## NOTICE UNDER SECTION 72 OF THE CESS ACT, 1880

THE owner, chief agent, manager or occupier of the (*give the designation of the property*), situated in the district of \_\_\_\_\_, is required to lodge in the office of the Collector of the district of \_\_\_\_\_ a return in the form hereunto annexed, showing the net profits of the \_\_\_\_\_ calculated on the average of the profits of the last three years for which accounts have been made up. Such return must be signed by him or his authorized agent, and be lodged within the space of two months from service

of 1880 ]

THE CESS ACT, 1880

(Schedule F)

of this notice, unless within the said two months an extension of the time allowed is obtained from the Collector

COLLECTOR'S OFFICE,

(Sd : A B ,

Dated

Collector

*Annexed form of Return*

District

Detail of yearly profits of mines, quarries, railways and tramways or other immoveable property in the possession or under the control of the person submitting the return —

1	2	3	4
Districts	Parganas	Name of holder or manager	Annual net profits <i>per annum</i> on the average of the last three years for which accounts have been made up
in which the property lies			

I, X Y Z, do declare that the statements contained in the above return are true to the best of my knowledge, information and belief

Signed \_\_\_\_\_

*N. B.—This return must be signed by the owner, chief agent, manager or occupier*

## SCHEDULE F

*Form of Notice under section 99.*

District of

NOTICE UNDER SECTION 99 OF THE CESS ACT, 1880.

THE occupiers, tenure-holders, under-tenants and riyats on estate or tenure *the estate, tenure or lands to be here clearly designated*) are hereby prohibited, until further order of the Collector, from making any payment of rent now or hereafter to become due from them in respect of any land comprised within

## THE BENGAL CESS (AMENDMENT No 1) ACT, 1881 [Ben Act 7 of 1881.]

such estate or tenure except to the Collector of the said district or to (*name of person*) hereby appointed to receive the same The Collector will grant receipts for all sums paid, and such receipts will, under the provisions of the above Act, be a valid discharge, to the extent of the sums covered by such receipts, for rent due, or hereafter to become due, as above stated by the holders of such receipts All payments, except to the Collector, until further order, will be null and void

(Sd) A. B.,

Collector

THE BENGAL CESS (AMENDMENT No 1) ACT, 1881<sup>[1]</sup>

(ACT 7 OF 1881)

[21st January, 1881]

An Act to amend Bengal Act No 9 of 1880 (the Cess Act, 1880).

## Preamble

WHEREAS it is expedient to amend Bengal Act No 9 of 1880 (the Cess Act, 1880), It is hereby enacted as follows —

Amendment  
of Bengal  
Act 9 of  
1880

1 In the said Act, after section 64, the following sections shall be inserted and shall be deemed to have been so inserted on and from the date on which such Act came into force —

64A, 64B [printed *ante*, p 131.]

[<sup>1</sup>] SHORT TITLE — This short title was given by the Repealing and Amending Act, 1903 (1 of 1903) printed *ante* p 18

LEGISLATIVE PAPERS — For Statement of Objects and Reasons, *see* Gazette of India, 1881, Part V, p 5, and for Proceedings in Council, *see ibid*, Supplement, 1881, pp 15, 20 97

LOCAL EXTENT — Since this Act merely makes textual amendments in Ben Act 9 of 1880, and contains no "local extent" clause, its local extent must be taken to be the same as that of the Act of 1880

The present Act has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s 3, to be in force in the following Scheduled Districts, namely —

the Hazaribagh, Ranchi, Palamau and Manbhum Districts, and Pargana Dhalbhum in the Singhbhum District, in the Chota Nagpur Division—*see* Vol V, Part V B (3)

For the reasons mentioned above, the Act must be taken to be in force in those tracts in the Southal Parganas in which Ben Act 9 of 1880 has been declared in force, but its operation in the other de regulationised tracts in Bengal is barred as follows—

in the Angul District, by the Angul District Regulation, 894 (1 of 1894), s 3 (2), *post*, in the Chittagong Hill tracts, by the Chittagong Hill tracts Regulation, 1900 (1 of 1900) s 4 (2), *post*, and

in tracts in the Southal Parganas in which Ben. Act 9 of 1880 is not in force, by the Southal Parganas Settlement Regulation, 1872 (3 of 1872), s 3 (2), as amended by the Southal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s 3 *post*

[Ben Act 2 of 1881] THE BENGAL CESS (AMENDMENT No 2) ACT, 1881

(Secs 1-6)

THE BENGAL CESS (AMENDMENT No 2) ACT, 1881<sup>[1]</sup>

(BENGAL ACT 2 OF 1881)

[4th May, 1881]

An Act to amend the Cess Act, 1880.

Ben Act 9 of  
1880

WHEREAS it is expedient to amend the Cess Act, 1880, passed by the Lieutenant-Governor of Bengal in Council, It is hereby enacted as follows —

1. In section 9 of the Cess Act, 1880, for the figures “111” the figures “109” shall be substituted Amendment of section 9 of the Cess Act, 1880
2. In section 10, after the words “public works cess,” the words “and all interest paid thereon,” shall be inserted Amendment of section 10
3. In section 13, after the words “in accordance with any valuation” the words “or re-valuation” shall be inserted Amendment of section 13.
4. After section 40 the following section shall be inserted, namely — Introduction of new section after section 40  
40A. [Printed *ante*, p 120]
5. In section 42, clause (1), for the words “for the payment of the instalments,” the following shall be substituted — “under the provisions of section 3 of Act 11 of 1859, or of any similar Act at the time being in force for the payment of arrears” Amendment of section 42, clause (1)
6. In section 43, after the word “proportionately” the words “to the land-revenue” shall be inserted Amendment of section 43

[1] SHORT TITLE — This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), printed *ante*, p 18

LEGISLATIVE PAPERS — For Statement of Objects and Reasons, see Calcutta Gazette, 1881, Part IV, p 3, and for Proceedings in Council, see *ibid* Supplement, 1881, pp 144, 148, 200 and 206

LOCAL EXTENT — Since this Act merely makes textual amendments in Ben Act 9 of 1880, and contains no “local extent” clause, its local extent must be taken to be the same as that of the Act of 1880.

The Act has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s 3 to be in force in the following Scheduled Districts, namely —

the Hazaribagh, Ranchi, Palamau and Manbhum Districts, in the Chota Nagpur Division—see Vol. V, Part V B (b).

For the reasons mentioned above, the Act must be taken to be in force in those tracts in the Sonthal Parganas in which Ben Act 9 of 1880 has been declared in force, but its operation in the other de-regulationised tracts in Bengal is barred as follows—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s 3 (2), *post*,  
in the Chittagong Hill-tracts, by the Chittagong Hill tracts Regulation, 1900 (1 of 1900), s 4 (2), *post*, and

in tracts in the Sonthal Parganas in which Ben Act 9 of 1880 is not in force, by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3, *post*.

## THE BENGAL CESS (AMENDMENT No 2) ACT, 1881 [Ben Act 2 of 1881]

(Secs 7-13)

In clause 3 of the same section, for the words "the last preceding section" the words "this section" shall be substituted

Addition to  
section 44

7. To section 44 the following clause shall be added —

(5) [Printed *ante*, p 123]

Amendment  
of section  
45

8 In section 45, after the word "twelve" the words "and-a-half" shall be inserted

Amendment  
of section 46

9 In section 46, clause (3), for the words "preceding section" the words "preceding clause" shall be substituted

Amendment  
of section 108

10. In section 108, after the words "cesses under this Act," the words "not being interest levied in respect of public works cess," shall be inserted.

Amendment  
of Schedule A,  
Part I

11. In the heading or column 3 of Part I, Schedule A, after the word "land," the words "if known," shall be inserted

For the note which stands below Part I of the same schedule the following note shall be substituted —

[Printed *ante*, p 163]

Amendment  
of Schedule A,  
Part II

12. In the heading of column 4 of Part II, Schedule A, after the word "occupied," the words "if known," shall be added

Amendment  
of Schedule  
C

13. In the heading of column 7 of the form of return in Schedule C, for the word and figure "column 5" the word and figure "column 6" shall be substituted



# COAST-LIGHTS

## THE BURMA COAST-LIGHTS ACT, 1879

(ACT 9 OF 1879)

### CONTENTS. [1]

#### PREAMBLE

#### *Preliminary*

#### SECTION

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Commencement  
Local Extent
- 2 Repeal
- 3 Interpretation-clause

#### *Coast-light Dues*

- 4 Coast-light dues payable in respect of vessels of fifty tons
- 5 Dues when payable
- 6 Power to vary rates of dues  
Proviso
- 7 Collection of dues, voucher to be given
- 8 Master to report arrival
- 9 Tonnage of vessel chargeable with coast-light dues, how ascertained
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- 10 On refusal to pay dues or expenses, the Collector may detain and sell
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- 12 Master to specify on demand voyage on which vessel is bound.
- 13 Penalty for evading payment of dues, etc.

#### *Determination of Disputes under Act.*

- 14 Magistrate to decide disputes

#### *Prosecutions under other Laws.*

- 15 Saving of prosecutions under other laws.

#### *Statement of Receipts and Expenditure.*

- 16 Statement of Receipts and Expenditure to be published.
- 17 [*Repealed*]

#### SCHEDULE

(Preliminary — Secs 1, 2)

## THE BURMA COAST-LIGHTS ACT, 1879

(ACT 9 OF 1879) [1]

[23<sup>rd</sup> May, 1879]

An Act to amend the law relating to Coast-lights in the Eastern part of the Bay of Bengal.

## Preamble

WHEREAS it is expedient to increase the coast-light dues paid under the provisions of Act No 13 of 1867 [2] (*an Act to provide for the establishment and maintenance of Coast-lights in the Eastern part of the Bay of Bengal*), and to render chargeable with coast-light dues certain vessels which are not now so chargeable, It is hereby enacted as follows:—

## Preliminary

## Short title

1 This Act may be called the Burma Coast lights Act, 1879

## Commence

It shall come into force on the first day of July, 1879,

## ment

## Local extent

And it shall extend to the territories respectively administered by the Governors of Fort St George and Bombay in Council, the Lieutenant-Governor of Bengal and the Chief Commissioners of British Burma [3] and the Andaman and Nicobar Islands

But nothing herein contained shall apply to any vessel belonging to or in the service of Her Majesty or the Government of India, or to any vessel of war belonging to any Foreign Prince or State

## Repeal

2 Act No 13 of 1867 (*to provide for the establishment and maintenance of Coast-lights in the Eastern part of the Bay of Bengal*) is hereby repealed.

But any appointment made under the said Act shall be deemed to have been made under this Act

[1] LEGISLATIVE PAPERS — For Statement of Objects and Reasons, *see* Gazette of India, 1879, Part V, p 42, and for Proceedings in Council, *see ibid*, Supplement, 1879, pp 17, 48, 488, and 528

LOCAL EXTENT — This Act extends to Madras, Bombay, Bengal, Lower Burma and the Andaman and Nicobar Islands — *see* s 1

OTHER ENACTMENTS — For a similar Act, authorising the levy of dues on vessels for the provision of lights on the coast of the Presidency of Madras, *see* the Madras Coast lights Act, 1904 (9 of 1904)

For Parliamentary legislation affecting Indian light houses *see* the Merchant Shipping Act, 1894 (57 & 58 Vict, c 60) ss 670—675 (printed in the Collection of Statutes relating to India, Vol. II, Ed 1901, p 1187), and the Merchant Shipping (Mercantile Marine Fund) Act, 1898 (61 & 62 Vict, c 44) — published in the Gazette of India, 1898, Pt I, p 965

[2] Act 13 of 1867 has been repealed by s. 2 of this Act

[3] This reference to "the territories administered by the Chief Commissioner of British Burma" must now be construed as referring to Lower Burma — *see* the Burma Laws Act, 1898 (13 of 1898) s 7, printed in the Burma Code, Ed 1899, p 262

of 1879.]

## THE BURMA COAST LIGHTS ACT, 1879

*(Preliminary.—Coast-light Dues —Secs 3-6)*

3 In this Act, unless there is something repugnant in the subject or context,— Interpretation clause

s of 1878 • “Customs-Collector” means a Customs-Collector appointed under the Sea Customs Act, 1878, [1] and includes any person appointed by the Local Government by name or in virtue of his office to discharge the functions of a Customs-Collector under this Act at any port “Customs Collector”

“Vessel” includes anything made for the conveyance by water of human beings or of property “Vessel”

“Master,” when used in relation to any vessel, means any person (except a Pilot or Harbour-Master) having, for the time being, the charge or control of such vessel “Master”

“Voyage” means the whole distance between a vessel’s place of departure and her final place of arrival, but the return of a vessel from any place shall, notwithstanding the terms of any charter party, be deemed a distinct voyage “Voyage”

*Coast-light Dues.*

4 For the purpose of establishing and maintaining coast-lights in the eastern part of the Bay of Bengal, a toll, hereinafter called “coast-light dues,” shall be paid in respect of every vessel of the burden of fifty tons and upwards making any voyage mentioned in the schedule hereto annexed, at the rate of one anna and six pie per ton of burden Coast light dues payable in respect of vessels of fifty tons

Provided that such vessel sails from or enters during the course of, or at the termination of, any such voyage a port in British India, or takes in, or discharges, cargo off the coast of British India

5 The said coast-light dues shall become due and payable—

- (a) in the case of a vessel clearing out of a port in British India upon any such voyage—previous to the grant of any port-clearance, Dues when payable
- (b) in the case of a vessel entering a port in British India in the course, or at the termination, of any such voyage—immediately upon her entering such port.

Provided that the said dues shall not be levied more than once on any vessel in the course of the same voyage

6. The Governor General in Council may from time to time, by notification in the Gazette of India, reduce or raise the rate of coast-light dues in respect of all vessels or any particular class of vessels: Power to vary rates of dues.

Proviso

Provided that such rate shall not in any case exceed the rate fixed by section 4

Collection of  
dues, voucher  
to be given

7 The Customs-Collector shall collect the coast-light dues, and shall grant to the person paying the same a voucher in writing under his hand, setting forth the name of his office, the port at which the coast-light dues are paid, the amount so paid, the name, tonnage and other proper description of the vessel in respect of which such payment is made, and the voyage on which she is or has been bound

Master to re  
port arrival

8 Within twenty-four hours after the arrival within a port of any vessel chargeable with coast-light dues, the master of such vessel shall give notice of such arrival to the Customs-Collector

Tonnage of  
vessel charge  
able with  
coast light  
dues how as  
certained,

9 In order to ascertain the tonnage of any vessel chargeable with coast-light dues, the following rules shall be observed —

if registered

(a) If such vessel be a British registered vessel or vessel registered under Act No 10 of 1841 [1] or Act No 11 of 1850, [2] or under any other law for the time being in force for the registration of vessels in India, the Customs Collector may require the owner or master of such vessel, or any other person having possession of her register, to produce such register for inspection. If any such owner, master or other person neglects or refuses to produce such register, or otherwise to satisfy the Customs Collector as to what is the true tonnage of the vessel in respect of which such coast light dues are payable, he shall be punished with fine which may extend to one hundred rupees, and the Customs-Collector may cause such vessel to be measured and the tonnage thereof to be ascertained, and in such case the owner or master of such vessel shall also be liable to pay the expenses of such measurement

if not regis  
tered

(b) If such vessel be not a British registered vessel or a vessel registered under Act No. 10 of 1841 [1] or Act No 11 of 1850, [2] or under any other law for the time being in force for the registration of vessels in India, and the owner or master thereof fails to satisfy the Customs-Collector as to what is her true tonnage according to the mode of measurement prescribed by the law in force for the time being for regulating the measurement of British registered vessels, the Customs-Collector shall cause such vessel to be measured and the tonnage thereof, according to the mode aforesaid, to be ascertained;

[1] The Indian Registration of Ships Act, 1841 It is printed in the General Acts, 1834-67, Ed. 1898, p. 19.

[2] The Indian Registration of Ships Act (1841) Amendment Act, 1850 It is printed in *ibid.*, p. 59.

of 1879 ]

## THE BURMA COAST LIGHTS ACT, 1879

*(Coast light Dues —Determination of Disputes under Act —Secs 10-14)*

and in such case the owner or master of such vessel shall be liable to pay the expenses of such measurement

- 10. If the master of any vessel refuses or neglects to pay to the Customs Collector on demand by him the amount of any dues or expenses payable in respect of such vessel under this Act, the Customs-Collector may distrain or arrest such vessel, and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount of such dues or expenses is paid,

On refusal to pay dues or expenses, the Collector may distrain and sell

and in case any part of such dues or expenses, or of the costs of the distress or arrest, or of the keeping of the same, remains unpaid for the space of five days next after any such distress or arrest so made, the Customs-Collector may cause the vessel or other thing so distrained or arrested to be sold, and with the proceeds of such sale may satisfy such dues, expenses and costs (including the costs of sale) remaining unpaid, and shall render the surplus (if any) to the master of such vessel upon demand

11. The officer of Government whose duty it is to grant a port-clearance<sup>[1]</sup> for any vessel shall not grant such port-clearance until her master or some other person has paid, or secured to the satisfaction of such officer, the amount of all dues, expenses and costs with which such vessel is chargeable under this Act, and of any fine to which any person is liable for anything done by him in contravention of this Act

No port clearance to be granted until dues, etc., are paid

12. The master of any vessel departing from or entering any port in British India upon, or in the course of, or at the termination of, any voyage, shall, upon the demand of the Customs-Collector, specify upon what voyage she is or has been bound

Master to specify on demand voyage on which vessel is bound.

13. If the Master of any vessel evades, or attempts to evade, the payment of any coast-light dues, expenses or costs payable in respect of such vessel under this Act, he shall be punished with fine which may extend to two hundred rupees

Penalty for evading payment of dues, etc

*Determination of Disputes under Act.*

14. If any dispute arises as to whether any vessel is chargeable with any coast-light dues, expenses or costs under this Act, or as to the amount of such dues, expenses or costs, such dispute shall, upon application made in that

Magistrate to decide disputes.

[1] As to the grant of port-clearance, see the Sea Customs Act, 1878 (8 of 1878), s 62, in the General Acts, 1877-81, Ed. 1898, p. 185.

*(Prosecutions under other Laws —Statement of Receipts and Expenditure —  
Secs 15, 16 —Schedule)*

behalf by either of the disputing parties, be heard and determined in the towns of Calcutta, Madras and Bombay by a Presidency Magistrate, and elsewhere by any Magistrate exercising at the place where the dispute arises powers under the Code of Criminal Procedure [1] not less than those of a Magistrate of the second class All decisions under this section shall be final 10 of 1872

*Prosecutions under other Laws*

Saving of  
prosecutions  
under other  
laws

15 Nothing herein contained shall prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act

Provided that no person shall be punished twice for the same act or omission

*Statement of Receipts and Expenditure*

Statement of  
receipts and  
expenditure  
to be pub-  
lished

16 The Governor General in Council shall [2] [publish annually] in the Gazette of India a statement showing the amount received on account of coast-light dues during the year ending on the thirty-first day of March last preceding, and the amount expended during the same period on the establishment and maintenance of coast-lights in the eastern part of the Bay of Bengal

*Preamble [Rep by the Indian Ports Act, 1889 (10 of 1889) ]*

17 *[Amendment of Indian Ports Act, 1875] Rep by the Indian Ports Act, 1889 (10 of 1889)*

## SCHEDULE

*(See section 4)*

- 1 A voyage to or from Chittagong or any place west of the longitude of Chittagong—
- (a) from or to any port in British Burma [3],  
or
  - (b) from or to any port in the Andaman and Nicobar Islands or any place east of the longitude of Mergui, by a course passing between the northern extremity of the Andaman Islands and the coast of British Burma [3]

[1] Act 10 of 1872 was repealed and re enacted by Act 10 of 1882 (the Code of Criminal Procedure, 1882), and Act 10 of 1882 has in turn been repealed and re enacted by the Code of Criminal Procedure, 1898 (Act 5 of 1898). The reference in the text should now, in accordance with section 3 (1) of the latter Act, be taken to be made to that Act, which is printed in the General Acts, 1891-98, Ed. 1899, p 380.

[2] These words in square brackets in s 16 were substituted for the words "on or before the first day of October in each year publish" by the Burma Laws Act, 1898 (13 of 1898), s. 16.

[3] These references to "British Burma" must now be construed as referring to Lower Burma—see the Burma Laws Act, 1898 (13 of 1898), s 7, printed in the Burma Code, Ed 1899, p 262

of 1879 ]

## THE BURMA COAST LIGHTS ACT, 1879

*(Schedule)*

2 A voyage to or from any port in British Burma[1]—

except voyages to or from Maulmein, from or to Mergui

3 A voyage to or from Rangoon and any port in British Burma[1] west of the longitude of Rangoon—

4 A voyage to or from any port in British Burma[1] other than Tavoy and Mergui—

from or to any other port in British Burma[1],

from or to Tavoy or Mergui, or to or from Tavoy,

from or to any place east of the longitude of Mergui,

from or to any port in the Andaman and Nicobar Islands

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[1] These references to "British Burma" must now be construed as referring to Lower Burma—see the Burma Laws Act, 1898 (13 of 1898), s 7, printed in the Burma Code, Ed 1899, p 262

# COMMISSIONERS OF DIVISIONS

## THE BENGAL REVENUE COMMISSIONERS REGULATION, 1829<sup>[1]</sup>

(REGULATION 1 OF 1829)

[1st January, 1829]

### A Regulation for constituting Commissioners of Revenue and Circuit \* \* \*

Preamble

1 THE system in operation for superintending the magistracy and the police, and for controlling and directing the executive Revenue-officers, who in several cases are also Magistrates, has been found to be defective

The Provincial Courts of Appeal and Circuit, as now constituted, partly from the extent of country placed under their authority, and partly from their having to discharge the duties of both civil and criminal tribunals, have, in many cases, failed to afford that prompt administration of justice which it is the duty of Government to secure for the people

The gaol-deliveries have been, in some instances, delayed beyond the term prescribed by law, especially in the division of Bareilly, which comprises thirteen stations at which gaol deliveries have to be held, beside the joint magistracies of Bâilâ and Sirpurâ, and a great arrear of cases under appeal has accrued in all the Courts, to the manifest injury of many individuals and to the encouragement of litigation and crime

The Judges of Circuit, when employed singly in the districts under their authority, do not possess sufficient powers, nor have they the opportunity of

[1] SHORT TITLE—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), printed *ante*, p 18

LOCAL EXTENT—This Regulation has been declared, by the Laws Local Extent Act, 1874 (15 of 1874) section 6 (printed General Acts, 1868 76, Ed 1898, p 455), to be in force throughout Bengal, except as regards the Scheduled Districts

The Regulation has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s 3, to be in force in the following Scheduled Districts namely—

West Jalpaiguri, in the Jalpaiguri District—*see* Vol V, Part V B (a), and the Western Hills, the Tarai and the Dumson Sub division, in the Darjeeling District—*see id*

The application of the Regulation is barred—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), section 3 (2), *post*,

in the Chittagong Hill tracts, by the Chittagong Hill tracts Regulation, 1900 (1 of 1900), section 4 (2), *post*, and

in the Southal Parganas, by the Southal Parganas Settlement Regulation, 1872 (8 of 1872), section 3 (2), as amended by the Southal Parganas Justice and Laws Regulation, 1899 (8 of 1899), section 3, *post*

[2] The rest of the title was repealed by the Repealing and Amending Act, 1903 (1 of 1903), and is omitted.



[Reg 1 of 1829] THE BENGAL REVENUE COMMISSIONERS REGULATION,  
1829

## (Sec 2)

acquiring sufficient local knowledge, to enable them adequately to control the police or protect the people

The great extent of country under each of the Boards of Revenue has similarly operated to impede them in the execution of the duties which belong to them as tribunals for the determination of all questions relative to the assessment of lands under settlement and for the judicial decision of many other important cases, as the general guardians of the fiscal interests of the State, as directors and superintendents over the executive officers, and as the confidential advisers of Government

For the correction of the above defects, it has appeared to be expedient and necessary to place the magistracy and police, and the Collectors and other executive Revenue-officers, under the superintendence and control of Commissioners of Revenue and Circuit, each vested with the charge of such a moderate tract of country as may enable them to be easy of access to the people, and frequently to visit the different parts of their respective jurisdictions, to confide to the said Commissioners the powers \* \* \* [1] that belong to the Boards of Revenue, to be exercised, with the modifications hereinafter provided, \* \* \* [1] under the instructions and control of a Sadar or Chief Board of Revenue, \* \* \* [1]

With the above views and purposes the Governor General in Council has enacted the following rules to be in force from the 1st March, 1829, throughout the Provinces immediately subject to the Presidency of Fort William —

2. A Commissioner of Revenue and Circuit shall be appointed for each of the under-mentioned divisions

Provided, however, that it shall be competent to the Governor General in Council, by an order in Council, to transfer any district or districts from one division to another, [2] and to increase or reduce the number of Commissioners, if such a measure shall appear to be necessary or expedient, due notice of any such arrangement being given by public proclamation

[1] \* \* \* \* \*

10th Division, to contain the districts under the { Saran,  
Magistrates, Collectors, Joint-Magistrates } Shahabad and  
and Sub-Collectors of } Tirhut.

Appointment of Commissioners of Revenue and Circuit for divisions specified.

[1] Portions repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

[2] For a list of divisions and districts as now existing, see the Bengal Quarterly Civil List, Part XXIX.

## COMMISSIONERS OF DIVISIONS

## THE BENGAL REVENUE

(Sec 2)

L Reg 1

11th Division, to contain the districts under the Magistrates, Collectors, Joint-Magistrates and Sub-Collectors of	.	.	.	.	{	Patna, Bihár and Ramgarh			
12th Ditto	ditto of	.	.	.	{	Bhagalpur, Monghyr, Malda and Purnea			
13th Ditto	ditto of	.	.	.	{	Dinajpur, Rangpur, Rajshahi and Bogra			
14th Ditto	ditto of	.	.	.	{	Murshidabad, Bibhum and Nadia			
15th Ditto	.	ditto of	.	.	{	Dacca [1], Dacca Jalalpur [1], Tippera and Mymensingh.			
16th Ditto	ditto of	.	.	.	{	Chittagong and Noakhali	*	*	[2]
*	*	*	*	*	*	*	*	*	[3]
18th Ditto	ditto of	.	.	.	{	Backergunge, Jessore, Suburbs of Calcutta [4], 24-Parganas and Barasat			
19th Ditto	ditto of	.	.	.	{	Cuttack, Khurda, Balasore, Midnapore and Nagwán in- cluding High			
20th Ditto	ditto of	.	.	.	{	Burdwan Jungle Maháls and Hooghly			

3 [Commissioners invested with powers of Judges of Circuit and Courts of Circuit collectively, period of holding sessions, etc] Rep by the Repealing Act, 1874 (16 of 1874)

[1] The City of Dacca and the Zila of Dacca Jalalpur were amalgamated as the district of Dacca by Reg 5 of 1833, which was repealed by the Laws Local Extent Act, 1874 (15 of 1874), printed in General Acts, 1867 76, Ed 1898, p 483

[2] The words "To be placed under the officer appointed to control the affairs of Arakan," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted

[3] Portion repealed by the same Act is omitted

[4] The suburbs of Calcutta, here referred to, were amalgamated with the 24-Parganas District by Reg 8 of 1832, which was repealed by the Laws Local Extent Act, 1874 (15 of 1874), printed in General Acts, 1867 76, Ed, 1898, p 483

of 1829 ]

COMMISSIONERS REGULATION, 1829

(Sec 4)

4. *First*—The said Commissioners shall until, otherwise specifically provided for by law, possess and exercise within the several districts comprised in their respective divisions the powers and authority [1] now vested in the Boards of Revenue and Courts of Wards, subject to the control and direction of a Sadar or Head Board, [2] to be ordinarily stationed at the Presidency, unless otherwise directed by the Governor General in Council, and to such restrictions and provisions as the Governor General in Council or the said Sadar Board, [2] with his authority or sanction, may prescribe

Commissioners to have powers of Boards of Revenue and Courts of Wards

*Second*—In regard to the form of their proceedings in the Revenue Department, the Commissioners and the Sadar Board [2] shall be guided by such orders as the Governor General in Council may from time to time issue, and it shall be competent to the Governor General in Council to fix the stations at which the Board and the Commissioners, when not employed on the duties of circuit, shall reside, at such places within the territories belonging to this Presidency as may from time to time be deemed expedient

Sadar Board and Commissioners how guided as to form of their revenue proceedings

*Third*—Provided also that, in cases in which any tract of country that belongs to the jurisdiction of a Magistrate or Joint Magistrate of one division may be under the authority of a Collector or Deputy Collector attached to another division, the Governor General in Council shall determine, by an order in Council, the nature and extent of the powers to be exercised in regard to the revenue affairs of such tract by the Commissioners respectively with whose divisions it may be so jointly connected

When tract within jurisdiction of Magistrate of one division is under Collector of another division

5. [*Abolition of powers of certain Provincial Courts of Appeal*] *Rep by the Repealing Act, 1874 (16 of 1874).*

6 [*Such of the provisions of the existing Regulations for defining the duties and powers of the Revenue Boards and Courts of Wards, or of single members thereof, as may be inconsistent with the arrangement above prescribed are, and shall be considered to be, annulled*] *Rep by the Repealing and Amending Act, 1903 (1 of 1903).*

Repeal of inconsistent provisions.

7, 8 [*Offices of Superintendents of Police abolished, Commissioners to perform duties of Superintendents, tender of pardon to accomplices, Powers of*

\* see [1] For a list of matters in which the authority of a Commissioner is necessary and sufficient, see The Board's Rules, 1902, pages 21 to 27

As to tours by Commissioners and District and Sub-divisional officers, see *ib.* pages 50 and 53.

As to the general duties of Commissioners, see *ib.* pages 52 and 53.

As to inspections by Commissioners, see the Inspection Manual, 1902, pages 1 to 3.

[2] This Board is now styled "the Board of Revenue for the Lower Provinces of the Presidency of Fort William in Bengal"—see the Bengal Board of Revenue Act, 1850 (44 of 1850), s 3, *ante*, p 78. As to the exercise of the functions of the Board by other authorities, see foot-note on page 75, *ante*

THE BENGAL REVENUE COMMISSIONERS REGULATION, [Reg. 1 of 1829.]  
1829

*Commissioner of Cuttack and Midnapore* ] *Rep by the Repealing and Amending Act, 1903 (1 of 1903)*

9 *First* [Powers of Commissioners of Arakan and Assam] *Rep by the Repealing and Amending Act, 1903 (1 of 1903)*

*Second* [Conferment of powers on the Commissioner for the districts of the Northern Doab, etc] *Rep by the United Provinces Land-revenue Act, 1873 (19 of 1873)* [Conferment of powers on the Resident at Delhi] *Rep in part by Ben Reg 6 of 1831, s 8, Residue Rep by Ben Reg 10 of 1831, s 4*

10 [Abolition of office of mufassal special Commissioner, modification of practice under Regs. 1 of 1821 and 1 of 1823] *Rep by the Repealing and Amending Act, 1903 (1 of 1903)*

# CORONER

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Act 10 of 1881	the Coroners Act, 1881	„ 195
Act 5 of 1889	the Coroners (Madras) Act, 1889	„ 196

## THE CORONERS ACT, 1871

(ACT 4 OF 1871)

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## THE CORONERS ACT 1871

(ACT 4 OF 1871) [1]

[27th January, 1871]

An Act to consolidate and amend the laws relating to Coroners

WHEREAS it is expedient to consolidate and amend the laws relating to Coroners in the Presidency-towns, It is hereby enacted as follows —

## CHAPTER I.

## PRELIMINARY

1. This Act may be called the Coroners Act, 1871

Short title

[*Local Extent*] *Rep by the Coroners Act, 1881 (10 of 1881).*

[*Commencement*] *Rep by the Repealing Act, 1874 (16 of 1874)*

2. [*Repeal of enactments*] *Rep by the Repealing Act, 1873 (12 of 1873).*

## CHAPTER II.

## APPOINTMENT OF CORONERS.

[2] 3. Within the local limits of the ordinary original civil jurisdiction of each of the High Courts of Judicature at Fort William and Bombay there

Coroners of  
Calcutta and  
Bombay.

[1] LEGISLATIVE PAPERS—For Statement of Objects and Reasons, see Gazette of India, 1870, Part V, p. 295; for Preliminary Report of Select Committee, see *ibid* p. 351, and for Proceedings in Council, see *ibid*, Supplement, 1870, pp. 1077, 1195, 1298, Supplement, 1871, pp. 198, 207

LOCAL EXTENT—This Act extends only to Calcutta and Bombay—see s. 3

REPRINT—This Act has been reprinted (by the Legislative Department of the Government of Bengal) as modified by subsequent legislation up to the 1st June, 1898

[2] This section was substituted for the original section 3 by s. 2 of the Coroners (Madras) Act, 1889 (6 of 1889), *post*, p. 196.

(Chapter II—Appointment of Coroners—Chapter III—Duties and Powers of Coroners—Secs 4-10)

shall be a Coroner. Such Coroners shall be called respectively the Coroner of Calcutta and the Coroner of Bombay.

Their appointment, suspension and removal

4. Every such officer shall be appointed and may be suspended or removed by the Local Government

\* \* \* \* \*

Coroners to be public servants

5. Every Coroner shall be deemed a public servant within the meaning of the Indian Penal Code [2]

45 of 1860.

Power to hold other offices

6. Any Coroner may hold simultaneously any other office under Government

7. [Oath to be taken by Coroner] Rep by the Indian Oaths Act, 1873 (10 of 1873)

### CHAPTER III

#### DUTIES AND POWERS OF CORONERS

Jurisdiction to inquire into deaths

8. When a Coroner [3] [has reason to believe] that the death of any person has been caused by accident, homicide, suicide, or suddenly by means unknown, or that any person being a prisoner has died in prison,

and that the body is lying within the place for which the Coroner is so appointed,

the Coroner shall inquire into the cause of death

Every such inquiry shall be deemed a judicial proceeding within the meaning of section 193 of the Indian Penal Code [2]

45 of 1860

Coroner to be sent for when prisoner dies

9. Whenever a prisoner dies in a prison situate within the place for which a Coroner is so appointed, the Superintendent of the prison shall send for the Coroner before the body is buried. Any Superintendent failing herein shall on conviction before a Magistrate be punished with fine not exceeding five hundred rupees.

Nothing in the former part of this section applies to cases in which the death has been caused by cholera or other epidemic disease.

Power to hold inquests on bodies within local limits wherever cause of death occurred.

10. Whenever an inquest ought to be holden on any body lying dead within the local limits of the jurisdiction of any Coroner, he shall hold such inquest, whether or not the cause of death arose within his jurisdiction.

[1] The words "Every person now holding such office shall be deemed to have been appointed under this Act," which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted.

[2] Printed in the General Acts 1834-67, Ed. 1898, p. 210

[3] These words in square brackets were substituted for the words "is informed" by the Coroners Act, 1881 (10 of 1881), s. 5, post, p. 195



of 1871 ]

## THE CORONERS ACT, 1871

*(Chapter III—Duties and Powers of Coroners—Secs 11 17)*

11 A Coroner may order a body to be disinterred within a reasonable time after the death of the deceased person, either for the purpose of taking an original inquisition where none has been taken, or a further inquisition where the first was insufficient

Power to  
order body to  
be disinterred

12 On receiving notice of any death mentioned in section 8, the Coroner shall summon five, seven, nine, eleven, thirteen or fifteen respectable persons to appear before him at a time and place to be specified in the summons, for the purpose of inquiring when, how and by what means the deceased came by his death

Summoning  
jury

Any inquest under this Act may be held on a Sunday

Inquest may  
be on Sunday

13 When the time arrives, the Coroner shall proceed to the place so specified, open the Court by proclamation, and call over the names of the jurors

Opening  
Court

14. When a sufficient jury is in attendance, he shall administer an oath to each juror to give a true verdict according to the evidence, and shall then proceed with the jury to view the body

Jurors to be  
sworn

15 The Coroner and the jury shall view and examine the body at the first sitting of the inquest, and the Coroner shall make such observations to the jury as the appearance of the body requires.

View of body

16 The Coroner shall then make proclamation for the attendance of witnesses, or, where the inquiry is conducted in secret, shall call in separately such as know anything concerning the death.

Proclamation  
for witnesses

17 [1] [It shall be the duty of all persons acquainted with the circumstances attending the death to appear before the inquest as witnesses, the Coroner shall inquire of such circumstances and the cause of death, and, if before or during the inquiry he is informed that any person, whether within or without the local limits of his jurisdiction, can give evidence or produce any document material thereto, may issue a summons requiring him to attend and give evidence or produce such document on the inquest

Summoning  
witnesses

Any person disobeying such summons shall be deemed to have committed an offence under section 174, section 175 or section 176 of the Indian Penal Code [2], as the case may be].

45 of 1860

[1] These clauses were substituted for the original clauses by the Coroners Act, 1881 (10 of 1881), s 6, *post*, p 195. The original clauses ran as follows:—

“It shall be the duty of all persons acquainted with the circumstances attending the death to appear before the inquest as witnesses; the Coroner shall inquire of such circumstances and the cause of the death, and if before or during the inquiry he is informed that any person can give evidence material thereto, may issue a summons requiring him to attend and give evidence on the inquest

Any person failing so to attend or give evidence shall be deemed to have committed an offence under section 174 or 176 of the Indian Penal Code, as the case may be”

[2] Printed in the General Act, 1884-87, Ed. 1898, p. 240.

For the purpose of causing prisoners to be brought up to give evidence, the Coroner shall be deemed a Criminal Court within the meaning of Act No 15 of 1869 (*to provide facilities for obtaining the evidence and appearance of prisoners and for service of process upon them*) [1]

Post mortem  
examinations

18 The Coroner may direct the performance of a *post-mortem* examination, with or without an analysis of the contents of the stomach or intestines, by any medical witness summoned to attend the inquest, and every medical witness, other than the Chemical Examiner to Government, shall be entitled to such reasonable remuneration as the Coroner thinks fit

Fees to medi-  
cal witnesses

Evidence to  
be on oath  
Evidence on  
behalf of  
accused  
Interpreter

19 All evidence given under this Act shall be on oath, and the Coroner shall be bound to receive evidence on behalf of the party (if any) accused of causing the death of the deceased person

Witnesses unacquainted with the English language shall be examined through the medium of an interpreter, who shall be sworn to interpret truly as well the oath as the questions put to, and the answers given, by the witnesses

Questions  
suggested by  
jury

After each witness has been examined, the Coroner shall inquire whether the jury wish any further questions to be put to the witness, and, if the jury wish that any such questions should be put, the Coroner shall put them accordingly.

Coroner to  
take down  
evidence in  
writing

20 The Coroner shall commit to writing the material parts of the evidence given to the jury, and shall read or cause to be read over such parts to the witness and then procure his signature thereto

Witnesses to  
sign deposi-  
tions

Any witness refusing so to sign shall be deemed to have committed an offence under section 180 of the Indian Penal Code [2]

45 of 1860

Coroner to  
subscribe  
depositions  
Coroner a  
Magistrate

Every such deposition shall be subscribed by the Coroner

[3] [For the purposes of section 26 of the Indian Evidence Act, 1872, [4] 1 of 1872 a Coroner shall be deemed to be a Magistrate]

Adjournment  
of inquest

21. The Coroner may adjourn the inquest from time to time, and from place to place

Jurors' recog-  
nizances

Whenever the inquest is adjourned the Coroner shall take the recognizances of the jurors to attend at the time and place appointed, and notify to the witnesses when and where the inquest will be proceeded with.

[1] Act 15 of 1869 has been repealed by the Prisoners Act, 1900 (3 of 1900—printed in the General Acts, 1899 1903, Ed 1904, p 119), and the reference to the former Act should now be construed as a reference to the latter—see the General Clauses Act, 1897 (10 of 1897), s. 8, in General Acts, 1891 98 Ed. 1899, p 324

[2] Printed in the General Acts, 1834 67, Ed. 1898, p 240.

[3] This clause was added by the Coroners Act, 1881 (10 of 1881), s. 7, *post*, p. 195

[4] Printed in the General Acts, 1868-76, Ed. 1898, p 222

of 1871 ]

## THE CORONERS ACT, 1871

*(Chapter III—Duties and Powers of Coroners —Secs 22-26)*

The amount of such recognizances shall in each case be fixed by the Coroner

22 When all the witnesses have been examined the Coroner shall sum up the evidence to the jury, and the jury shall then consider of their verdict

Coroner to sum up to jury

23 When the verdict is delivered the Coroner shall draw up the inquisition according to the finding of the jury, or, when the jury is not unanimous, according to the opinion of the majority

Coroner to draw up inquisition

24 Every inquisition under this Act shall be signed by the Coroner with his name and style of office and by the jurors, and shall set forth—

Contents of inquisition

(1) where, when and before whom the inquisition is holden,

(2) who the deceased is,

(3) where his body lies,

(4) the names of the jurors, and that they present the inquisition upon oath,

(5) where, when and by what means the deceased came by his death, and

(6) if his death was occasioned by the criminal act of another, who is guilty thereof

If the name of the deceased be unknown, he may be described as a certain person to the jurors unknown.

Every such inquisition shall be in the form set forth in the Second Schedule hereto annexed, with such variation as the circumstances of each case require

25. When the verdict is that the death has been caused by culpable homicide amounting to murder, or by culpable homicide not amounting to murder, or by a rash or negligent act not amounting to culpable homicide, the Coroner shall bind by recognizance any person knowing or declaring anything material touching such murder, homicide or act to appear at the next Criminal Sessions at which the trial is to be, then and there to prosecute or give evidence against the party charged

Procedure where verdict amounts to murder, culpable homicide or killing by negligence

The Coroner shall certify and subscribe such recognizances, and shall immediately after the inquest, deliver them, together with the inquisition and evidence, to the proper officer of the Court in which the trial is to be.

Coroner to certify and deliver inquisition, depositions and recognizances.

26 The Coroner shall also, where the verdict justifies him in so doing, issue his warrant for the apprehension of the person accused and commit him to prison until he is thence discharged by due course of law, or, if he be already in prison, issue a detainer to the officer in charge of the jail in which he is.

Warrant against person accused.

(Chapter III—Duties and Powers of Coroners—Chapter IV—Coroners' Juries—Secs 27-32)

Power to  
accept bail.

27 In cases where the jury has found against any person a verdict of culpable homicide not amounting to murder or of killing by a rash or negligent act not amounting to culpable homicide, the Coroner may, if he thinks fit, accept bail with sufficient sureties for the appearance of such person at the next Criminal Sessions, and thereupon such person, if in custody of any officer of the Coroner's Court, or in any gaol under a warrant of commitment issued by the Coroner, shall be discharged therefrom

Warrant for  
burial

28. When the proceedings are closed, or before, if it be necessary to adjourn the inquest, the Coroner shall give his warrant for the burial of the body on which the inquest has been taken

Inquisitions  
not to be  
quashed for  
want of form  
Amendment  
of inquisition

29 No inquisition found upon or by any inquest shall be quashed for any technical defect

In any case of technical defect, a Judge of the High Court may, if he thinks fit, order the inquisition to be amended, and the same shall forthwith be amended accordingly.

Cessation of  
jurisdiction  
as to treasure  
trove, wrecks,  
&c

30 It shall no longer be the duty of the Coroner to inquire whether any person dying by his own act was or was not *felo-de-se*, to inquire of treasure trove or wrecks, to seize any fugitive's goods, to execute process or to exercise as Coroner any jurisdiction not expressly conferred by this Act.

*Felo de se*  
Deodands

A *felo-de-se* shall not forfeit his goods  
Deodands are hereby abolished

## CHAPTER IV

### CORONERS' JURIES.

Fine on juror  
neglecting to  
attend

31. Whenever any person has been duly summoned to appear as a juror by a Coroner, and fails or neglects to attend at the time and place specified in the summons, the Coroner may cause him to be openly called in his Court three times to appear and serve as a juror, and upon the non-appearance of such person, and proof that such summons has been served upon him, or left at his usual place of abode, may impose such fine upon the defaulter not exceeding fifty rupees, as to the Coroner seems fit.

Certificate as  
to defaulting  
juror.

32. The Coroner shall make out and sign a certificate, containing the name and surname, the residence and trade or calling of every person so making default, together with the amount of the fine so imposed, and the cause of such fine;

of 1871 ]

## THE CORONERS ACT, 1871

(Chapter IV — Coroners' Juries — Chapter V — Rights and Liabilities of Coroners — Secs 33-38)

and shall send such certificate to one of the Magistrates of the place of which he is the Coroner,

and shall cause a copy of such certificate to be served upon the person so fined, by having it left at his usual place of residence, or by sending the same through the Post Office, addressed as afore-said and registered

Service of copy of certificate.

33. Thereupon such Magistrate shall cause the fine to be levied in the same manner as if it had been imposed by himself

Levy of fine.

34. Unless in case of necessity, no person who has appeared, or has been summoned to appear, as a juror on an inquest, and has not made default, shall within one year after such appearance or summons, be summoned to appear as a juror under this Act

Jurors not to be summoned twice within the year

35. When an inquest is held on the body of a prisoner dying within a prison, no officer of the prison and no prisoner confined therein shall be a juror on such inquest

Jurors on inquest on prisoner

## CHAPTER V

## RIGHTS AND LIABILITIES OF CORONERS.

36. Every Coroner shall be entitled to such salary for the performance of the duty of his office as is prescribed in that behalf by the Governor General in Council.

Coroner's salary

37 All disbursements duly made by a Coroner for fees to medical witnesses, hire of rooms for the jury and the like, shall be repaid to him by the Local Government

Disbursements to be repaid.

38. Every Coroner may from time to time, with the previous sanction of the Local Government, appoint, by writing under his hand, a proper person to act for him as his deputy in the holding of inquests \* \* \* [1]

Power to appoint deputy.

All inquests taken and other acts done by any such deputy, under or by virtue of any such appointment, shall be deemed to be the acts of the Coroner appointing him

Provided that no such deputy shall act for any such Coroner except during the illness of the said Coroner, or during his absence for any lawful and reasonable cause.

Every such appointment may at any time be cancelled and revoked by the Coroner by whom it was made.

Revocation of appointment.

[1] The words "and such deputy shall take and subscribe, before one of the Judges of the High Court, an oath that he will faithfully discharge the duties of his office," which were repealed by the Indian Oaths Act, 1873 (10 of 1873), are omitted.

(Chapter V—Rights and Liabilities of Coroners—Secs 39 42—Second Schedule)

Exemption  
from serving  
on juries  
Privilege  
from arrest

Penalty for  
failure to  
comply with  
Act

Tender of  
amends

39 No Coroner or Deputy Coroner shall be liable to serve as a juror

40 Coroners and Deputy Coroners shall be privileged from arrest while engaged in the discharge of their official duty

41 Any Coroner or Deputy Coroner failing to comply with the provisions of this Act, or otherwise misconducting himself in the execution of his office, shall be liable to such fine as the Chief Justice of the High Court, upon summary examination and proof of the failure or misconduct, thinks fit to impose

42. No proceeding for anything done under this Act, or for any failure to comply with its provisions, shall be commenced or prosecuted \* \* \* [1] after tender of sufficient amends

[First Schedule-Enactments repealed] Rep by the Repealing Act, 1873 (12 of 1873).

## SECOND SCHEDULE

### FORM OF INQUISITION

AN INQUISITION taken at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 187 \_\_\_\_\_, before *E F*, Coroner of \_\_\_\_\_, on view of the body of *A B* then and there lying dead upon the oath of *G H, I J, K L* and *M N*, then and there duly sworn and charged to inquire when, how and by what means the said *A B* came to his death

We, the said jurors, find unanimously [or by a majority of \_\_\_\_\_] that the death of the said *A B* was caused, on or about the \_\_\_\_\_ day of \_\_\_\_\_ 187 \_\_\_\_\_, by [here state the cause of death as in the following examples]—

- 1 Cases of homicide—a blow on the head with a stick inflicted on him by *C D*, under such circumstances that the act of *C D* was justifiable [or accidental] homicide  
—a stab on the heart with a knife inflicted on him by *C D*, under such circumstances that the act of *C D* was culpable homicide not amounting to murder [or culpable homicide amounting to murder or a rash or negligent act not amounting to culpable homicide]
- 2 Cases of accident—falling out of a boat into the river Hooghly, whereby he was drowned,  
—a kick from a horse which fractured his skull and ruptured blood-vessels in his head
- 3 Cases of suicide—shooting himself through the head with a pistol,  
—arsenic, which he voluntarily administered to himself
- 4 Cases of sudden death by means unknown—disease of the heart,  
—apoplexy,  
—sunstroke

And so say the jurors upon their oath aforesaid

Witness our hands. *E F*, Coroner of

*G H, I J, K L, M N, O P* (jurors)

[1] The words “after the expiration of three months from such fact or failure, nor” which were repealed by the Indian Limitation Act, 1871 (9 of 1871), are omitted.

[Act 10 of 1881]

THE CORONERS ACT 1881

## THE CORONERS ACT, 1881

(ACT 10 OF 1881) [1]

[25th February, 1881.]

4 of 1871

An Act to amend the Coroners Act, 1871, and for other purposes.

[2] [WHEREAS it is expedient to amend the Coroners Act, 1871, in Preamble manner hereinafter appearing, It is hereby enacted as follows —]

1. This Act may be called "The Coroners Act, 1881"

Short title

[Commencement] Rep by the Repealing and Amending Act, 1903 (1 of 1903)

2 [Repeal] 3 [Power to alter local limits of jurisdiction of Coroner of Madras] 4 Application of sections 133 to 135 of Act 10 of 1872 to area excluded from jurisdiction of Coroner of Madras] Rep by the Coroners (Madras) Act, 1889 (5 of 1889), s 3 (2)

4 of 1871

5 In section 8 of the Coroners Act, 1871, [3] for the words "is informed," the words "has reason to believe" shall be substituted

Act 4 of 1871, section 8, amended.

6 For the first two clauses of section 17 of the Coroners Act, 1871, [3] the following shall be substituted, that is to say —

Section 17 of same Act amended

[Printed ante, p 189]

7 To section 20 of the Coroners Act, 1871 [3] the following clause shall be added, that is to say —

Addition to section 20 of same Act

[Printed ante, p 190]

8 [New section substituted for section 9 of Madras Act 8 of 1867.] Rep by the Code of Criminal Procedure, 1882 (Act 10 of 1882)

9 [Act 10 of 1872, Schedule V, in part repealed] Rep by the Code of Criminal Procedure, 1882 (Act 10 of 1882)

[1] LEGISLATIVE PAPERS For Statement of Objects and Reasons, see Gazette of India, 1881, Pt V, p 2, and for Proceedings in Council see *ibid*, Supplement, 1881, pp 12, 17, 221, 250

LOCAL EXTENT—This Act, like Act 4 of 1871 (*ante*, page 187), extends only to Calcutta and Bombay

[2] This preamble was substituted for the original preamble by the Coroners (Madras) Act, 1889 (5 of 1889), s 3 (1), *post*, p 196

[3] Printed ante, p 187

## THE CORONERS (MADRAS) ACT, 1889 [Act 5 of 1889]

THE CORONERS (MADRAS) ACT, 1889<sup>[1]</sup>

(ACT 5 OF 1889).

[1st March, 1889]

## An Act to abolish the Office of Coroner of Madras

WHEREAS it is expedient to abolish the office of Coroner of Madras and for this purpose to amend the Coroners Act, 1871, <sup>4 of 1871</sup> [2] the Coroners' Act, 1881, <sup>10 of 1881</sup> [3] and <sup>5 of 1898</sup> [4] [the Code of Criminal Procedure, 1898], It is hereby enacted as follows:—

Commence-  
ment.

1. This Act shall come into force on such day <sup>[5]</sup> as the Governor of Fort St. George in Council may, by notification in the Fort St George Gazette, appoint in this behalf

Amendment  
of the Coro-  
ners Act,  
1871.

2. For section 3 of the Coroners Act, 1871, the following shall be sub- <sup>4 of 1871</sup>stituted, namely —

[Printed *ante*, p. 187]Amendment  
of the Coro-  
ners Act,  
1881

3 (1) For the preamble to the Coroners Act, 1881, the following shall be <sup>10 of 1881</sup>substituted, namely —

[Printed *ante*, p. 195.]

(2) [Repeal of sections 2 to 4 of Act 10 of 1881.] *Rep by the Repealing and Amending Act, 1891 (12 of 1891)*

4 (1) [Repeal of s 1(e) of Act 10 of 1882.] *Rep. by the Code of Criminal Procedure, 1898 (Act 5 of 1898)*

(2) [Omitted, as applying only to Madras]

[1] SHORT TITLE — This short title was given by the Amending Act, 1901 (11 of 1901), printed in the General Acts, 1899 03, Ed 1904, page 167

LEGISLATIVE PAPERS — For Statement of Objects and Reasons, *see* Gazette of India, 1888, Pt V, p 148, for Report of Select Committee, *see ibid*, 1889, Pt IV, p 21, and for Proceedings in Council, *see ibid*, 1888, Pt VI, p 139, and 1889, Pt VI, pp 1, 16, 17 and 42

LOCAL EXTENT — Sections 2 and 3 (1) of this Act, like Act 4 of 1871 (*ante*, p 187), extend only to Calcutta and Bombay

[2] Printed *ante*, p 187.[3] Printed *ante*, p 195.

[4] The words and figures printed in square brackets were substituted for the words and figures “the Code of Criminal Procedure, 1882,” by the Repealing and Amending Act, 1903 (1 of 1903), printed *ante*, p 18 The Code of Criminal Procedure, 1898 (Act 5 of 1898), is printed in the General Acts, 1891 98, Ed 1899, page 380

[5] The 1st June, 1889,—*see* Fort St George Gazette, 1889 Part I, p 335



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## THE BENGAL, UNITED PROVINCES<sup>[1]</sup> AND ASSAM CIVIL COURTS ACT, 1887

(ACT 12 OF 1887)

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[1] The words "United Provinces" have been substituted for the words North-Western Provinces—see the United Provinces (Designation) Act, 1902 (7 of 1902), s. 2.

COURTS,  
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[Act 12]

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of 1887.]

## CIVIL COURTS

(Chapter I—Preliminary—Sec 1)

THE BENGAL, UNITED PROVINCES<sup>[1]</sup> AND ASSAM  
CIVIL COURTS ACT, 1887

(ACT 12 OF 1887) [2]

[11th March, 1887]

An Act to consolidate and amend the law relating to Civil Courts in Bengal, the North-Western<sup>[3]</sup> Provinces and Assam

WHEREAS it is expedient to consolidate and amend the law relating to Civil Courts in Bengal, the North-Western<sup>[3]</sup> Provinces and Assam, It is hereby enacted as follows —

## CHAPTER I

## PRELIMINARY

1 (1) This Act may be called the Bengal, North Western<sup>[3]</sup> Provinces and Assam Civil Courts Act, 1887

Title extent  
and commence-  
ment

[1] The words "United Provinces" have been substituted for the words North Western Provinces *see* the United Provinces (Designation) Act, 1902 (7 of 1902), s 2

[2] LEGISLATIVE PAPERS — For Statement of Objects and Reasons *see* Gazette of India, 1881, Pt. V, p 1455 for Preliminary Report of Select Committee, *see ibid*, 1880, Pt. V, p 957, and for Proceedings in Council, *see ibid* Supplement, 1881, pp 1132, 1163, 1414 and 1423, Supplement, 1880, p 1458, Pt. VI, 1887 pp 31 and 33

LOCAL EXTENT — This Act extends to Bengal the territories formerly known as the North Western Provinces, and Assam, with the exception of territories not subject to the ordinary civil jurisdiction of the High Courts— *see* s 1(2) *post*, p 200

The Act has been declared by notification under the Scheduled Districts Act, 1874 (14 of 1874), s 3, to be in force in the following Scheduled Districts, namely —

the Hazaribagh, Ranchi, Palamau and Manbhum Districts, and Pargana Dhalbhum, the Chaibassa Municipality and the Pothat Estate in the Singhbhum District, in the Chota Nagpur Division— *see* Vol V Part V B(b)

The Act is in force in the Southal Parganas so far only as regards the trial of certain suits— *see ibid*, Part VII(c) Its operation in the other de-regulated tracts in Bengal is barred as follows:— in the Angul District by the Angul District Regulation, 1894 (1 of 1894), s 3 (2), *post*, and in the Chittagong Hill tracts, by the Chittagong Hill tracts Regulation, 1900 (1 of 1900), s 4 (2), *post*

ORDERS — For orders by the High Court as to the appointment of acting Munsifs and as to investing Munsifs with Small Cause Court powers, *see* the High Court's Rules, 1903, Civil, Vol I, page 313

OTHER ENACTMENTS AS TO CIVIL COURTS — As to Civil Courts in the Southal Parganas, *see* the Southal Parganas Justice Regulation, 1893 (5 of 1893), Ch II, *post*

As to Civil Courts in the Angul District, *see* the Angul District Regulation, 1894 (1 of 1894), Chs II and IV, *post*

As to Civil Courts in the Chittagong Hill tracts, *see* the Chittagong Hill tracts Regulation, 1900 (1 of 1900), Chs III and V, *post*.

SMALL CAUSE COURTS — As to Small Cause Courts, *see* the Presidency Small Cause Courts Act, 1882 (15 of 1882), in General Acts, 1882-84, Ed 1898, p 510, and the Provincial Small Cause Courts Act, 1887 (9 of 1887), in General Acts, 1885-90, Ed 1898, p 128

CRIMINAL COURTS — As to the constitution and powers of Criminal Courts, *see* the Code of Criminal Procedure, 1898 (Act 5 of 1898), Part II (in General Acts, 1891-98, Ed 1899, p. 385).

CORONER'S COURT — As to the Court of the Coroner, *see* head "Coroner," *ante*, p 185

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GOVERNMENT INDEMNITY — As to non liability of Government for errors or irregularities in proceedings of Courts, and non liability of Government officers for things done in conformity with decrees, etc., *see* the Bengal Government Indemnity Regulation, 1822 (11 of 1822), s 38, in Vol. II of this Code

[3] The name of these Provinces has since been changed— *see* the United Provinces (Designation) Act, 1902 (7 of 1902), in General Acts, 1899-03, Ed 1904, p 200

(Chapter I — Preliminary — Chapter II — Constitution of Civil Courts —  
Secs 2-5)

(2) It extends to the territories for the time being respectively administered by the Lieutenant Governor of Bengal, the Lieutenant-Governor of the North-Western<sup>[1]</sup> Provinces and the Chief Commissioner of Assam, except such portions of those territories as for the time being are not subject to the ordinary civil jurisdiction of the High Courts, \* \* \* \* [2] and

(3) It shall come into force on the first day of July, 1887.

2 (1) [*Repeal of Acts 6 of 1871 and 19 of 1877.*] *Rep by the Repealing and Amending Act, 1891 (12 of 1891)*

Saving.

(2) \* \* [3] All Courts constituted, appointments, nominations, rules and orders made, jurisdiction and powers conferred and lists published under the Bengal Civil Courts Act, 1871,<sup>[4]</sup> or any enactment thereby repealed, or 6 of 1871. purporting expressly or impliedly to have been so constituted, made, conferred and published shall be deemed to have been respectively constituted, made, conferred and published under this Act, and

(3) Any enactment or document referring to the Bengal Civil Courts Act, 1871<sup>[4]</sup> or to any enactment thereby repealed, shall be construed to refer to 6 of 1871 this Act or to the corresponding portion thereof.

## CHAPTER II.

### CONSTITUTION OF CIVIL COURTS

Classes of  
Courts

3 There shall be the following classes of Civil Courts under this Act namely —

- (1) the Court of the District Judge,
- (2) the Court of the Additional Judge,
- (3) the Court of the Subordinate Judge, and
- (4) the Court of the Munsif.

Number of  
District  
Judges and  
Subordinate  
Judges.  
Number of  
Munsifs.

4. The Local Government may, with the previous sanction of the Governor General in Council, increase or reduce the number of District Judges and Subordinate Judges now fixed

5. The Local Government may, subject to the control of the Governor General in Council, alter the number of Munsifs now fixed.

[1] The name of these Provinces has since been changed—see the United Provinces (Designation) Act 1902 (7 of 1902), in General Acts, 1899-03, Ed. 1, 1904, p. 200

[2] The words "and except the Jhansi Division", in s 1 (2), which were repealed by the North-Western Provinces and Oudh Act, 1890 (20 of 1890), s 9 (1), are omitted

[3] The word "But" in sub section (2) of section 2, which was repealed by the Repealing and Amending Act, 1891 (12 of 1891), is omitted

[4] Ben. Act 6 of 1871 was repealed by section 2 (1) of the present Act

of 1887 ]

## CIVIL COURTS

*(Chapter II — Constitution of Civil Courts — Secs 6-9)*

Provided that, except in the case of Munsifs whose monthly salary does not exceed two hundred and fifty rupees, an increase of the number of Munsifs now fixed shall not be made by the Local Government without the previous sanction of the Governor General in Council

6 (1) Whenever the office of District Judge or Subordinate Judge is vacant by reason of the death, resignation or removal of the Judge or other cause, or whenever the Governor General in Council has sanctioned an increase of the number of District Judges, or Subordinate Judges, the Local Government may fill up the vacancy or appoint the Additional District Judges or Subordinate Judges, as the case may be.

Vacancies  
among Dis-  
trict or Sub-  
ordinate  
Judges

2 Nothing in this section shall be construed to prevent a Local Government from appointing a District Judge or Subordinate Judge to discharge for such period as it thinks fit in addition to the functions devolving on him as such District Judge or Subordinate Judge, all or any of the functions of another District Judge or Subordinate Judge, as the case may be

7 (1) Whenever the office of Munsif is vacant, or whenever the Local Government increases the number of Munsifs, the High Court shall nominate such person as it thinks fit to be a Munsif, and the Local Government shall appoint him accordingly

Vacancies  
among  
Munsifs

The Local Government may, after consultation with the High Court and with the previous sanction of the Governor General in Council, make rules as to the qualifications of persons to be appointed to the office of Munsif.

When rules have been made under sub-section (2), a person shall not be nominated under sub-section (1) unless he possesses the qualifications required by the rules.

(1) When the business pending before any District Judge requires the aid of Additional Judges for its speedy disposal, the Local Government may, upon the recommendation of the High Court and with the previous sanction of the Governor General in Council, appoint such Additional Judges as may be requisite

Additional  
Judges

(2) Additional Judges so appointed shall discharge any of the functions of a District Judge which the District Judge may assign to them, and, in the discharge of those functions, they shall exercise the same powers as the District Judge.

9. Subject to the superintendence of the High Court, the District Judge shall have administrative control over all the Civil Courts under this Act within the local limits of his jurisdiction.

Administra-  
tive control  
of Courts

Temporary  
charge of  
District  
Court

**10 (1)** In the event of the death, resignation or removal of the District Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the place at which his Court is held, the Additional Judge, or, if an Additional Judge is not present at that place, the senior Subordinate Judge present thereat, shall, without relinquishing his ordinary duties, assume charge of the office of the District Judge, and shall continue in charge thereof until the office is resumed by the District Judge or assumed by an officer appointed thereto

**(2)** While in charge of the office of the District Judge, the Additional Judge or Subordinate Judge, as the case may be, may, subject to any rules which the High Court may make in this behalf, exercise any of the powers of the District Judge

Transfer of  
proceedings  
on vacation  
of office of  
Subordinate  
Judge

**11. (1)** In the event of the death, resignation or removal of a Subordinate Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the place at which his Court is held, the District Judge may transfer all or any of the proceedings pending in the Court of the Subordinate Judge either to his own Court or to any Court under his administrative control competent to dispose of them.

**(2)** Proceedings transferred under sub-section (1) shall be disposed of as if they had been instituted in the Court to which they are so transferred

**(3)** Provided that the District Judge may re-transfer to the Court of the Subordinate Judge or his successor any proceedings transferred under sub-section (1) to his own or any other Court

**(4)** For the purposes of proceedings which are not pending in the Court of the Subordinate Judge on the occurrence of an event referred to in sub-section (1), and with respect to which that Court has exclusive jurisdiction, the District Judge may exercise all or any of the jurisdiction of that Court

Temporary  
charge of  
office of  
Munsif

**12. (1)** A District Judge, on the occurrence within the local limits of his jurisdiction of any vacancy in the office of Munsif, may appoint such person as he thinks fit to act in the office until that person is relieved by a Munsif appointed under section 7 or his appointment is cancelled by the District Judge

**(2)** The District Judge shall forthwith report to the High Court the occurrence of every such vacancy and the making and cancelling of every such appointment.

Power to fix  
local limits

**13. (1)** The Local Government may, by notification [1] in the official

[1] For an order issued under this section as to the local limits of the jurisdiction of Munsifs' Courts in the Midnapore district, see the Bengal Local Statutory Rules and Orders, 1903, Vol II, p 76.

of 1887 ]

## CIVIL COURTS

*(Chapter II — Constitution of Civil Courts — Secs 14-17)*

Gazette, fix and alter the local limits of the jurisdiction of any Civil Court under this Act

of jurisdiction of Courts

(2) If the same local jurisdiction is assigned to two or more Subordinate Judges or to two or more Munsifs, the District Judge may assign to each of them such civil business cognizable by the Subordinate Judge or Munsif, as the case may be, as, subject to any general or special orders of the High Court, he thinks fit

(3) When civil business arising in any local area is assigned by the District Judge under sub-section (2) to one of two or more Subordinate Judges or to one of two or more Munsifs, a decree or order passed by the Subordinate Judge or Munsif shall not be invalid by reason only of the case in which it was made having arisen wholly or in part in a place beyond the local area if that place is within the local limits fixed by the Local Government under sub-section (1)

(4) A Judge of a Court of Small Causes appointed to be also a Subordinate Judge or Munsif is a Subordinate Judge or Munsif, as the case may be, within the meaning of this section

(5) The present local limits of the jurisdiction of every Civil Court under this Act shall be deemed to have been fixed under this section

14 (1) The Local Government may, by notification in the official Gazette, fix and alter the place or places at which any Civil Court under this Act is to be held

Place of sitting of Courts

(2) All places at which any such Courts are now held shall be deemed to have been fixed under this section

15 (1) Subject to such orders as may be made by the Governor General in Council, the High Court shall prepare a list of days to be observed in each year as closed holidays in the Civil Courts

Vacations of Courts.

(2) The list shall be published in the local official Gazette

(3) A judicial act done by a Civil Court on a day specified in the list shall not be invalid by reason only of its having been done on that day

16 Every Civil Court under this Act shall use a seal of such form and dimensions as are prescribed by the Local Government.

Seals of Courts

17 . (1) Where any Civil Court under this Act has from any cause ceased to have jurisdiction with respect to any case, any proceeding in relation to that case which, if that Court had not ceased to have jurisdiction, might have been had therein may be had in the Court to which the business of the former Court has been transferred.

Continuance of proceedings of Courts ceasing to have jurisdiction.

*(Chapter III—Ordinary Jurisdiction—Secs 18-21)*

(2) Nothing in this section applies to cases for which provision is made in section 623 or section 649 of the Code of Civil Procedure [1] or in any other enactment for the time being in force

14 of 1882.

## CHAPTER III

## ORDINARY JURISDICTION

Extent of  
original juris-  
diction of  
District or  
Subordinate  
Judge

18 Save as otherwise provided by any enactment for the time being in force, the jurisdiction of a District Judge or Subordinate Judge extends, subject to the provisions of section 15 of the Code of Civil Procedure, [1] to all original suits for the time being cognizable by Civil Courts

14 of 1882.

Extent of  
jurisdiction  
of Munsif

19 (1) Save as aforesaid, and subject to the provisions of sub-section (2), the jurisdiction of a Munsif extends to all like suits of which the value does not exceed one thousand rupees

(2) The Local Government may, on the recommendation of the High Court, direct by notification in the official Gazette, with respect to any Munsif named therein, that his jurisdiction shall extend to all like suits of such value not exceeding two thousand rupees as may be specified in the notification

Appeals from  
District and  
Additional  
Judges

20 (1) Save as otherwise provided by any enactment for the time being in force, an appeal from a decree or order of a District Judge or Additional Judge shall lie to the High Court

(2) An appeal shall not lie to the High Court from a decree or order of an Additional Judge in any case in which, if the decree or order had been made by the District Judge, an appeal would not lie to that Court.

Appeals from  
Subordinate  
Judges and  
Munsifs

21. (1) Save as aforesaid, an appeal from a decree or order of a Subordinate Judge shall lie—

(a) to the District Judge where the value of the original suit in which or in any proceeding arising out of which the decree or order was made did not exceed thousand rupees, and

(b) to the High Court in any other case.

(2) Save as aforesaid, an appeal from a decree or order of a Munsif shall lie to the District Judge.

(3) Where the function of receiving any appeals which lie to the District Judge under sub-section (1) or sub-section (2) has been assigned to an Additional Judge, the appeals may be preferred to the Additional Judge.

(4) The High Court may, with the previous sanction of the Local Government, direct, by notification in the official Gazette, that appeals lying to the



of 1887 ]

## CIVIL COURTS

(Chapter IV—Special Jurisdiction—Secs 22, 23)

District Judge under sub-section (3) from all or any of the decrees or orders of any Munsif shall be preferred to the Court of such Subordinate Judge as may be mentioned in the notification, and the appeals shall thereupon be preferred accordingly

## CHAPTER IV

## SPECIAL JURISDICTION

22 (1) A District Judge may transfer to any Subordinate Judge under his administrative control any appeals pending before him from the decrees or orders of Munsifs

Power to transfer to Subordinate Judges appeals from Munsifs

(2) The District Judge may withdraw any appeal so transferred, and either hear and dispose of it himself or transfer it to a Court under his administrative control competent to dispose of it

(3) Appeals transferred under this section shall be disposed of subject to the rules applicable to like appeals when disposed of by the District Judge

23 (1) The High Court may, by general or special order, authorize any Subordinate Judge or Munsif to take cognizance of, or any District Judge to transfer to a Subordinate Judge or Munsif under his administrative control, any of the proceedings next hereinafter mentioned or any class of those proceedings specified in the order.

Exercise by Subordinate Judge or Munsif of jurisdiction of District Court in certain proceedings.

(2) The proceedings referred to in sub-section (1) are the following, namely —

(a) proceedings under Bengal Regulation 5, 1799 [1] (*to limit the Interference of the Zila and City Courts of Diwān Adalat in the Execution of Wills and Administration to the Estates of persons dying intestate*),

[2] \* \* \* \* \*

(b) proceedings under the Indian Succession Act, 1865, [3] and the Probate and Administration Act, 1831, [4] which cannot be disposed of by District Delegates, and

(c) references by Collectors under section 322C of the Code of Civil Procedure [5]

5 of 1881

14 of

[1] Printed in Vol IV of this Code.  
 [2] Clause (3) [which referred to proceedings under Act 40 of 1858 (Minors) or Act 9 of 1861 (Minors)] and clause (a) [which referred to applications for certificates under Act 27 of 1860 (Succession)] were repealed by the Guardians and Wards Act, 1890 (8 of 1890).—printed in General Acts, 1885-90, Ed 1898, p. 384, and the Succession Certificates Act, 1889 (7 of 1889).—printed in General Acts, 1885-90, Ed 1898, p. 281, respectively, and are omitted  
 [3] Printed in General Acts, 1884-87, Ed 1898, p. 468  
 [4] Printed in General Acts, 1877-81, Ed 1898, p. 339  
 [5] Printed in General Acts, 1862-84, Ed., 1898, p. 262

(Chapter IV — *Special Jurisdiction* — Chapter V — *Misfeasance* —  
secs 24-27 )

(3) The District Judge may withdraw any such proceedings taken cognizance of by, or transferred to, a Subordinate Judge or Munsif, and may either himself dispose of them or transfer them to a Court under his administrative control competent to dispose of them

Disposal of  
proceedings  
referred to  
in last fore-  
going section

24 (1) Proceedings taken cognizance of by, or transferred to, a Subordinate Judge or Munsif, as the case may be, under the last foregoing section shall be disposed of by him subject to the rules applicable to like proceedings when disposed of by the District Judge

Provided that an appeal from an order of a Munsif in any such proceeding shall lie to the District Judge

(2) An appeal from the order of the District Judge on the appeal from the order of the Munsif under this section shall lie to the High Court if a further appeal from the order of the District Judge is allowed by the law for the time being in force

Power to  
invest Sub-  
ordinate  
Judges and  
Munsifs with  
Small Cause  
Court juris-  
diction

25 The Local Government may, by notification in the official Gazette, confer, within such local limits as it thinks fit, upon any Subordinate Judge or Munsif the jurisdiction of a Judge of a Court of Small Causes under the Provincial Small Cause Courts Act, 1887, [1] for the trial of suits cognizable 9 of 1887 by such Courts, up to such value not exceeding five hundred rupees in the case of a Subordinate Judge or one hundred rupees in the case of a Munsif as it thinks fit, and may withdraw any jurisdiction so conferred

## CHAPTER V

### MISFEASANCE

Suspension  
or removal  
of Judges  
by Local  
Government.  
Suspension  
of Subor-  
dinate Judge  
by High  
Court

26. Any District Judge, Additional Judge, Subordinate Judge or Munsif may, for any misconduct, be suspended or removed by the Local Government

27. (1) The High Court may, whenever it sees urgent necessity for so doing, suspend a Subordinate Judge.

(2) Whenever the High Court suspends a Subordinate Judge under subsection (1), it shall forthwith report to the Local Government the circumstances of the suspension, and the Local Government shall make such order with respect thereto as it thinks fit

of 1887 ]

## CIVIL COURTS

(Chapter V — Misfeasance — Chapter VI — Ministerial Officers —  
Secs 28-32)

28 (1) The High Court may appoint a commission for inquiring into alleged misconduct of a Munsif

Suspension  
or removal  
of Munsif  
by High  
Court

(2) On receiving the report of the result of the inquiry, the High Court may, if it thinks fit, remove or suspend the Munsif

(3) The provisions of Act No 37 of 1850 [1] (*for regulating Inquiries into the behaviour of Public Servants*) shall apply to inquiries under this section, the powers conferred by that Act on the Government being exercised by the High Court

(4) The High Court may, before appointing the commission, suspend the Munsif pending the result of the inquiry

(5) The High Court may, without appointing a commission, remove or suspend a Munsif

29. (1) A District Judge may, whenever he sees urgent necessity for so doing, suspend a Munsif under his administrative control

Suspension  
of Munsif  
by District  
Judge

(2) Whenever a District Judge suspends a Munsif under sub-section (1), he shall forthwith report to the High Court the circumstances of the suspension, and the High Court shall make such order with respect thereto as it thinks fit

## CHAPTER VI.

## MINISTERIAL OFFICERS

30 District Judges shall appoint the ministerial officers of their Courts and, subject only to the control of the Local Government, may remove or suspend those officers or fine them in an amount not exceeding one month's salary

Appointment  
and removal  
of ministerial  
officers of  
District  
Courts

31. (1) The ministerial officers of the Civil Courts subject to the administrative control of the District Judge shall be appointed—

Appointment  
and removal  
of ministerial  
officers of  
other Courts.

(a) in the case of an appointment not likely to last, and not lasting longer than two months, by those Courts, and

(b) in any other case, by the District Judge.

(2) An Additional Judge, Subordinate Judge or Munsif may, by order, remove or suspend, or fine in an amount not exceeding one month's salary, any ministerial officer of his Court who is guilty of misconduct or neglect in the performance of the duties of his office.

32. The provisions of the two last foregoing sections shall be subject to

Appointment  
and removal

*(Chapter VI.—Ministerial Officers—Chapter VII—Supplemental Provisions—Secs. 33 36 )*

of ministerial  
officers on  
joint estab-  
lishments

the following modifications in their application to ministerial officers employed by more Civil Courts than one, namely —

- (a) appointments not likely to last, and not lasting, longer than two months shall be made by the Court of the highest class among those Courts, or, where there is no difference in class among those Courts, by the senior among the presiding Judges thereof, and
- (b) such ministerial officers may not be removed or suspended by any Court except the Court which under clause (a) of this section is for the time being charged with the duty of making appointments to fill temporary vacancies.

General pow-  
ers of Dis-  
trict Judge.

**33** The District Judge, subject only to the control of the Local Government, may, by order, suspend or remove any ministerial officer to whom section 31 or section 32 applies, and may, on appeal or otherwise, reverse or modify any order made under either of those sections by any Court under his administrative control

Transfer of  
ministerial  
officers

**34** (1) The Local Government may, at the instance of the High Court or of a District Judge, transfer a ministerial officer from any Civil Court under this Act to any other such Court

(2) The District Judge may transfer a ministerial officer from any such Court within the local limits of his jurisdiction to any other such Court within those limits.

Recovery of  
fines

**35.** Any fine imposed under this Chapter may be recovered by deduction from the salary of the person fined

## CHAPTER VII

### SUPPLEMENTAL PROVISIONS.

Power to  
confer  
powers of  
Civil Courts  
on officers.

**36.** (1) The Local Government may invest with the powers of any Civil Court under this Act, by name or in virtue of office,—

- (a) any officer in the Chota Nagpur, Jalpaiguri or Darjeeling district, or in any part of the territories administered by the Chief Commissioner of Assam except the district of Sylhet, or,
- (b) after consultation with the High Court, any officer serving in any other part of the territories to which this Act extends and belonging to a class defined in this behalf by the Local Government with the previous sanction of the Governor General in Council.

of 1887 ]

## CIVIL COURTS

*(Chapter VII—Supplemental Provisions—Secs 37, 38)*

(2) Nothing in sections 4 to 8 (both inclusive), or sections 10 to 12 (both inclusive) or sections 27 to 35 (both inclusive) applies to any officer so invested, but all the other provisions of this Act shall, so far as those provisions can be made applicable, apply to him as if he were a Judge of the Court with the powers of which he is invested

(3) Where, in the territories mentioned in clause (a) of sub-section (1), the same local jurisdiction is assigned to two or more officers invested with the powers of a Munsif, the officer invested with the powers of a District Judge may with the previous sanction of the Local Government, delegate his functions under sub section (2) of section 13 to an officer invested with the powers of a Subordinate Judge or to one of the officers invested with the powers of a Munsif

(4) Where the place at which the Court of an officer invested with powers under sub-section (1) is to be held has not been fixed under section 14, the Court may be held at any place within the local limits of its jurisdiction

37 (1) Where in any suit or other proceeding it is necessary for a Civil Court to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution, the Muhammadan law in cases where the parties are Muhammadans, and the Hindu law in cases where the parties are Hindus, shall form the rule of decision, except in so far as such law has, by legislative enactment, been altered or abolished

(certain decisions to be according to native law)

(2) In cases not provided for by sub-section (1) or by any other law for the time being in force, the Court shall act according to justice, equity and good conscience

38. (1) The presiding officer of a Civil Court shall not try any suit or other proceeding to which he is a party or in which he is personally interested,

Judges not to try suits in which they are interested

(2) The presiding officer of an appellate Civil Court under this Act shall not try an appeal against a decree or order passed by himself in another capacity

(3) When any such suit, proceeding or appeal as is referred to in sub-section (1) or sub section (2) comes before any such officer, the officer shall forthwith transmit the record of the case to the Court to which he is immediately subordinate, with a report of the circumstances attending the reference.

(4) The superior Court shall thereupon dispose of the case under section 25 of the Code of Civil Procedure [1]

(5) Nothing in this section shall be deemed to affect the extraordinary original civil jurisdiction of the High Court.

14 of 1882

Subordination  
of Courts to  
District  
Court

39 For the purposes of the last foregoing section the presiding officer of a Court subject to the administrative control of the District Judge shall be deemed to be immediately subordinate to the Court of the District Judge, and, for the purposes of the Code of Civil Procedure,[1] the Court of such an officer shall be deemed to be of a grade inferior to that of the Court of the District Judge 14 of 1882

Application  
of Act to  
Provincial  
Courts of  
Small Causes

40. (1) This section and sections 15, 32, 37, 38 and 39 apply to Courts of Small Causes constituted under the Provincial Small Cause Courts Act, 1887 [2] 9 of 1887

(2) Save as provided by that Act, the other sections of this Act do not apply to those Courts.

## THE BENGAL CIVIL COURT AMINS ACT, 1899<sup>[3]</sup>

(BENGAL ACT 2 OF 1899)

[25th October, 1899.]

An Act to repeal the Civil Courts Amins Act, 1856, in Bengal

WHEREAS it is expedient to repeal the Civil Courts Amins Act, 1856, so far as it applies to Bengal, It is hereby enacted as follows — 12 of 1856

Repeal of Act  
12 of 1856

1 The Civil Courts Amins Act, 1856,[4] is hereby repealed throughout Bengal

Provided as follows —

(a) this repeal shall not affect any appointment already made under the said Act, and

(b) the persons holding such appointments shall perform such duties as may be required of them by the District Judge

[1] Printed in General Acts, 1882 81, Ed 1898, p 262

[2] Printed in General Acts 1885 90, Ed 1898, p 128

[3] SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903) printed *ante*, p 18

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1899, Pt IV, p 613, and for Proceedings in Council see *ibid*, Supplement 1899, pp 1560, 1907, Special Supplement, January, 1900, pp. 140 and 251

LOCAL EXTENT.—This Act is expressed to apply to the whole of Bengal, but its application is barred—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s 3 (2) *post*,  
in the Chittagong Hill-tracts, by the Chittagong Hill tracts Regulation, 1900 (1 of 1900)  
s 4 (2), *post*, and

in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s 3, *post*

[4] Printed in the Assam Code, Ed. 1897, p 87

[Act 19 of 1867 ]

HIGH COURT

THE DARJEELING (HIGH COURT'S JURISDICTION)  
ACT, 1867<sup>[1]</sup>

(ACT 19 OF 1867)

[8th March, 1867 ]

An Act to make further provision for the Administration of  
justice in the District of Darjeeling

WHEREAS it is expedient to make further provision for the administration of justice in the District of Darjeeling, It is hereby enacted as follows — Preamble

1 [Repeal of Act 10 of 1863] Rep. by the Repealing Act, 1874 (16 of 1874)

2 The High Court of Judicature for the Bengal Division of the Presidency of Fort William shall have and exercise, with regard to the District of Darjeeling, all such jurisdiction and powers as it has and exercises with regard to any other territory [2] High Court, Fort William, to exercise jurisdiction over Darjeeling

[1] SHORT TITLE — This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), printed *ante*, p 18

LEGISLATIVE PAPERS — For Statement of Objects and Reasons see Gazette of India, 1867, p 33 and for Proceedings in Council, see *ibid*, Supplement, 1867, pp 1, 41, 162 and 219

LOCAL EXTENT — This Act extends only to the District of Darjeeling

CONSTITUTION OF HIGH COURT — As to the constitution, jurisdiction and powers of the Calcutta High Court, see the Indian High Courts Act, 1861 (24 & 25 Vict, c 104) [printed in the Collection of Statutes relating to India, Vol I, Ed 1891, p 357], and the Indian High Courts Act, 1865 (28 & 29 Vict, c 15) [printed in *ibid* page 396]

[2] *see*, apparently, outside the local limits of its ordinary original civil jurisdiction

# COURT OF WARDS

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Act 4 of 1892	the Court of Wards Act (Ben- gal) Amendment Act, 1892	„ 238

## THE COURT OF WARDS ACT, 1879 (BENGAL ACT 9 OF 1879)

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[1] This Table has been newly added.



[Ben Act 9 of 1879] THE COURT OF WARDS ACT, 1879.

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of 1879 ]

THE COURT OF WARDS ACT, 1879

(Preamble)

## THE COURT OF WARDS ACT, 1879

(BENGAL ACT 9 OF 1879) [1]

[30th July, 1879]

## An Act to amend the law relating to the Court of Wards

WHEREAS it is expedient to amend the law relating to the Court of Wards

Preamble

[1] LEGISLATIVE PAPERS — For Statement of Objects and Reasons, *see* Calcutta Gazette, 1878, Pt IV, p 75, for Report of Select Committee *see ibid*, 1879, Pt IV, p 31, for further Report of Select Committee, *see ibid* p 47, and for Proceedings in Council, *see ibid*, Supplement, 1878, pp 317, 343 and 402, Supplement, 1879, pp 6, 332, 400 and 441

LOCAL EXTENT — This Act extends to the whole of Bengal, including the Scheduled Districts — *see* section 1. It has also (with Ben Act 3 of 1881), been declared, by Notification under the Scheduled Districts Act 1874 (14 of 1874), s 3, to be in force in the following Scheduled Districts, namely —

the Hazaribagh, Ranchi, Palamau and Manbhum Districts, and Pargana Dhalbhum, the Kolhan and the Porahat Estate in the Singhbhum District, in the Chota Nagpur Division — *see* Vol V, Part V B(b)

The Act (with Ben Act 3 of 1881 and Act 4 of 1892) is in force in the Sonthal Parganas [*see* Vol V, Part VI B(c)], but its application in the other de-regulationised tracts in Bengal is barred as follows —

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s 3 (2) *post*, and

in the Chittagong Hill tracts, by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s 4(3) *post*

REPRINTS — This Act has been reprinted (by the Legislative Department of the Government of Bengal) as modified by subsequent legislation up to the 1st July 1901

For an annotated edition of the Act *see* the Wards Manual, 1897, pp 24 to 28

Part III of the Act is reprinted in the Salt Law Manual, 1902, pp 116, 117

AMENDING ACTS — Bengal Act 3 of 1881 and Act 4 of 1892 are to be read with and taken as part of Bengal Act 9 of 1879 — *see* s 1 of each of the former Acts, *post*, pp 237 and 238

OTHER ACTS AS TO WARDS — As to wards, *see* also —

the Lunacy (Supreme Courts) Act, 1858 (34 of 1858) in General Acts, 1834 67, Ed. 1898, p 144,

the Lunacy (District Courts) Act, 1858 (35 of 1858), in General Acts, 1834 67, Ed. 1898, p 151,

the Indian Majority Act, 1875 (9 of 1875), in General Acts, 1868 76, Ed. 1898, p 508, and

the Guardians and Wards Act, 1890 (8 of 1890), in General Acts, 1885 90, Ed. 1898, p 384

TENANCY LAW — Where the Bengal Rent Act, 1859 (10 of 1859), is in force, Managers of the Court of Wards have powers of distraint thereunder — *see* Act 10 of 1859, s 114, in Vol II of this Code

The Bengal Tenancy Act, 1885 (8 of 1885), does not affect any enactment regulating the procedure for the realisation of rents in estates under the management of the Court of Wards — *see* Act 8 of 1885, s 195 (b), in Vol II of this Code

As to the appointment of the Court of Wards to be a Manager under the Bengal Tenancy Act, 1885, *see* ss 95 and 97 of that Act, in Vol II of this Code

As to the application of the Public Demands Recovery Act, 1895 (Ben Act 1 of 1895), to arrears of rent or of other demands recoverable as rent, in the case of property under the charge of the Court of Wards, *see* ss 7 (h), 8, 9 of the former Act, in Vol. IV of this Code

FURTHER ENACTMENTS — The Bengal Wills and Intestacy Regulation, 1799 (5 of 1799), does not affect the jurisdiction of the Court of Wards — *see* s. 8 of that Regulation, in Vol IV of this Code

As to the application of Ben Act 9 of 1879 to settled estates, *see* the Bengal Settled Estates Act, 1904 (Ben. Act 3 of 1904), ss. 34, 38, in Vol. IV of this Code

As to the payment of income-tax by the Court of Wards, *see* ss. 22, 43 and 45 of the Indian Income-tax Act, 1886 (2 of 1886), in General Acts, 1885 90, Ed. 1898, p 31.

within the territories under the administration of the Lieutenant-Governor of Bengal, It is enacted as follows —

## PART I

## PRELIMINARY

Short title

1. This Act may be called the Court of Wards Act, 1879

Extent

It extends to all the territories under the administration of the Lieutenant-Governor of Bengal, including the Scheduled Districts of Bengal as defined in the Scheduled Districts Act, 1874 [1]

14 of 1874

[Commencement] *Rep by the Repealing and Amending Act, 1897 (5 of 1897)*

Repeal and savings

2 Bengal Act 4 of 1870 (the Court of Wards Act), section 11 of Act 35 of 1858, [2] sections 12, 14 and 15 of Act 40 of 1858 [3], and so much of section 21 of Act 40 of 1858 [3] as provides that the Civil Court may direct the Collector to take charge of an estate, are hereby repealed

All persons and properties which at the commencement of this Act are under the charge of the Court of Wards, as constituted by Bengal Act 4 of 1870, shall be deemed to be under the charge of the Court of Wards, as constituted by this Act

And all persons and properties which at the commencement of this Act are under the charge of the Collector by virtue of an order of the Civil Court under section 11 of Act 35 of 1858, [2] or under section 12, section 14 or section 21 of Act 40 of 1858, [3] shall from such commencement be deemed to be under the charge of the Court of Wards

And all rules prescribed, orders or appointments made, and agreements executed under the Court of Wards Act, 1870, and now in force, shall (so far as they are consistent with this Act) be deemed to be respectively prescribed, made and executed under this Act

Ben Act 4 of 1870

**RULES AND ORDERS**—For rules by the Board of Revenue issued under s. 70 of Ben Act 9 of 1879, see the Wards Manual, 1897, pp 49 to 92

For orders made and forms prescribed by the Board for the working of the Act, see *ibid*, pp. 93 to 168

As to the keeping of accounts in Wards' estates, see the Government Estates Manual, 1902, p 10.

As to agricultural and other improvements in Wards' estates, see *ibid*, p 38

As to the inspection of work connected with estates managed by the Revenue authorities under the present Act, see the Inspection Manual, 1902, pp 17 and 43 to 57

[1] Printed, General Acts, 1868-76, Ed 1894, p 467.

[2] The Lunacy (District Courts) Act, 1858 It is printed in the General Acts, 1834-67, Ed. 1898, p 151.

[3] The whole of Act 40 of 1858 was repealed by the Guardians and Wards Act, 1890 (8 of 1890).

of 1879 ]

## THE COURT OF WARDS ACT, 1879

(Part I—Preliminary—Part II—Constitution, Jurisdiction and Powers of the Court of Wards—Secs 3-5)

And all orders and appointments made by Collectors under Act 35 of 1858<sup>[1]</sup> or Act 40 of 1858,<sup>[2]</sup> and now in force, shall (so far as they are consistent with this Act) be deemed to be made under this Act.

\* \* \* \* \*

3 In this Act, unless there be something repugnant in the subject or context,—

“Collector” includes any officer in charge of the revenue jurisdiction of a district

“the Court” means the Court of Wards,

or, when the Court of Wards has delegated any of its powers to a Commissioner or Collector or any other person, it means, in respect of such powers, the Commissioner or Collector or person to whom they are delegated

“estate” means all lands which lie borne on the revenue roll of a Collector as liable for the payment of one and the same demand of land-revenue <sup>“Estate”</sup> <sup>Interpretation</sup> <sup>tion</sup> <sup>“Collector”</sup> <sup>“the Court”</sup> <sup>“Estate”</sup> <sup>“Minor”</sup> <sup>“Section,”</sup> <sup>“Ward”</sup> <sup>Saving of Act 34 of 1858 and of jurisdiction of High Court as respects infants</sup> <sup>Constitution and general duties of Court of Wards</sup> <sup>Ed 1898, p. 144</sup>

[4] [and includes a share in or of an estate other than an undivided share held in coparcenary as the property of a Hindu joint family governed by the *Mutakshara* or *Mithala* law] :

“minor” means a person who has not completed his age of twenty-one years

“section” means a section of this Act

“ward” means any person who is under the charge of the Court of Wards, or whose property is under such charge

4 Nothing contained in this Act shall affect any of the provisions of Act 34 of 1858 <sup>[5]</sup> or the jurisdiction, as respects infants, of any High Court of Judicature

## PART II.

## CONSTITUTION, JURISDICTION AND POWERS OF THE COURT OF WARDS

5 The Board of Revenue shall be the Court of Wards for the territories to which this Act extends.

It shall deal with every person and every property of which it may take

[1] The Lunacy (District Courts) Act, 1858. It is printed in the General Acts, 1834-67, Ed 1898, p. 151

[2] Act 40 of 1858 was repealed by the Guardians and Wards Act, 1890 (8 of 1890)

[3] The remainder of s. 2 (as to pending suits and proceedings) was repealed by the Repealing and Amending Act, 1903 (1 of 1903), and is omitted

[4] The words in square brackets in the definition of “estate” were added by the Court of Wards Act (Bengal) Amendment Act, 1892 (4 of 1892), s. 2 *post*, p. 238

[5] The Lunacy (Supreme Courts) Act, 1858. It is printed in the General Acts, 1834-67, Ed 1898, p. 144

(Part II—*Constitution, Jurisdiction and Powers of the Court of Wards*—  
Secs 6-9)

or retain charge under this Act, or which may be placed under its charge by order of a competent Court, in accordance with the provisions of this Act.

Disqualified  
proprietors

6 Proprietors of estates shall be held disqualified [1] to manage their own property when they are—

- (a) females declared by the Court incompetent to manage their own property,
- (b) persons declared by the Court to be minors,
- (c) persons adjudged by a competent Civil Court to be of unsound mind, and incapable of managing their affairs,
- (d) persons adjudged by a competent Civil Court to be otherwise rendered incapable by physical defects or infirmities of managing their own property,

[2] [(e) persons as to whom the Local Government has declared, on their own application, that they are disqualified, and that it is expedient in the public interest that their estates should be managed by the Court]

Jurisdiction  
of Court over  
disqualified  
proprietors

7. Whenever the sole proprietor of an estate, or all the joint proprietors of an estate, are disqualified as provided in the last preceding section, the Court shall have power to take charge of all the property of every such proprietor or joint proprietor within its jurisdiction, and of the person of any such proprietor or joint proprietor who is resident within its jurisdiction, and also of the person and property of any minor member of the family of any such proprietor or joint proprietor who has an immediate or reversionary interest in the property of such proprietor or joint proprietor

[3] [Provided that the Court shall not be empowered to take charge of the person of a proprietor disqualified on his own application under clause (e) of section 6]

Court when  
bound to give  
up charge.

8. Whenever the circumstances of any ward become such that the Court could not take charge of him or of his property if he were not under its charge already, the Court shall be bound to release from its charge such person and his property

Discretion of  
Court as to  
taking and  
keeping  
charge.

9. The Court may in its discretion, in any case in which it is empowered by this Act to take charge of the person and property of any disqualified proprietor,—

- (a) take charge of such property without taking charge of such person;

[1] As to ascertainment of disqualification, see Part IV, *post*, p 224.

[2] Clause (e) was added by the Court of Wards Act (Bengal) Amendment Act, 1892 (4 of 1892), s. 3, *post*, p. 239.

[3] This proviso was added by s. 4 of the same Act, *post* p 239

of 1879 ]

## THE COURT OF WARDS ACT, 1879

(Part II—*Constitution, Jurisdiction and Powers of the Court of Wards —*  
*Sec 10*)

(b) refrain from taking charge of any such person or property,

(c) at any time withdraw from such charge, if taken,

(d) at any time resume such charge, after having withdrawn from it

[1] [And in any case in which the Court has taken charge of the property of a person disqualified from managing his own estate under the provisions of section 6, clause (e), it may in its discretion—

(e) at any time withdraw from such charge, or

(f) retain such charge, notwithstanding the death of the proprietor, until all debts and liabilities incurred by, or due from, the said proprietor, or which are a charge upon the property or any part thereof, together with all interest due thereon, have been discharged.

Provided that, after the death of the proprietor, the Court shall not retain charge on account of any debt or liability which has been declared by a competent Civil Court not to be binding on the representative of such deceased proprietor.]

8 of 1890

[2] 10 [3] [Whenever a Civil Court is satisfied that an order should be made under section 7 of the Guardians and Wards Act, 1890, [4] appointing a guardian of the person or property of a minor, or both,

Application  
by Civil Court  
to Court of  
Wards to take  
charge

whenever a Civil Court removes, under section 39 of the same Act, the guardian of a minor,]

or whenever a person has been adjudged, under Act 35 of 1858, [5] to be of unsound mind and incapable of managing his affairs,

if the property of such minor or disqualified proprietor consists, in whole or in part, of land or any interest in land, the Civil Court may apply to the Court of Wards to take charge of the person and property of such minor or disqualified proprietor, and it shall be at the discretion of the Court of Wards to take charge of such person or property, or to refuse to do so.

Nothing contained in sections 12 to 19 (both inclusive) of Act 35 of 1858 [5] shall be held to apply to persons or properties under the charge of the Court of Wards.

[1] The clauses in square brackets in s 9 were added by the Court of Wards Act (Bengal) Amendment Act, 1892 (4 of 1892), s 5, *post*, p. 239.

[2] For an order by the High Court, directing Civil Courts to send to the Collector or Deputy Commissioner, for transmission to the Court of Wards, all applications under s. 10, *see* the High Court's Rules, 1903, Civil, Vol I, p. 60.

[3] The clauses in square brackets in s 10 were substituted for the original clauses by s 6 of the same Act, *post*, p. 239.

[4] Printed in the General Acts, 1885-90, Ed 1898, p 384.

[5] The Lunacy (District Courts) Act, 1858. It is printed in the General Acts, 1854-67, Ed. 1898, p 151.

(Part II—*Constitution, Jurisdiction and Powers of the Court of Wards —*  
*Secs 11-14*)

Procedure  
when any of  
joint proprie-  
tors ceases to  
be disquali-  
fied

[1] 11 Whenever one or more of the joint proprietors of whose properties the Court has taken charge ceases to be subject to the jurisdiction of the Court, the Court may retain charge of the persons and properties of the still disqualified proprietors during the continuance of their qualification

And, in case any person entitled to any property jointly with any disqualified proprietor shall consent thereto, the Court may retain or resume the charge of the property of such proprietor or any part thereof so long as the property of any such disqualified proprietor as aforesaid remains in charge of the Court.

Withdrawal  
from charge  
by Court

12 The Court of Wards may at any time withdraw from the charge of any person and property taken under section 10 or under section 11, and from the charge of any person or property [2] [which either before or after the commencement of this Act was or is placed] under the charge of the Collector by a Civil Court under section 12, section 14 or section 21 of Act 40 of 1858, [3] or under section 11 of Act 35 of 1858, [4] [or under any other enactment for the time being in force] [5]

Provided that it shall give notice of its intention to withdraw to the Civil Court concerned, and that such notice shall be given not less than two months before the Court of Wards shall so withdraw

Procedure  
when succe-  
sion to prop-  
erty of ward dis-  
puted.

13 Whenever, on the death of any ward, the succession to his property or any part thereof is in dispute, the Court may either direct that such property or part thereof be made over to any person claiming such property, or may retain charge of the same until the right to possession of the claimant has been determined under Bengal Act 7 of 1876, [6] or until the dispute has been determined by a competent Civil Court.

General  
powers of  
Court.

14 Subject to the provisions of this Act, the Court—

(a) may, through its manager, do all such things requisite for the proper care and management of any property of which it may take or retain charge under this Act, or which may be placed under its

[1] This section was substituted for the original s 11 by the Court of Wards Act (Bengal) Amendment Act, 1892 (4 of 1892), s 7, *post*, p 239

[2] These words in square brackets were substituted for the words "which before the commencement of this Act was placed" by s 8 of the same Act.

[3] Act 40 of 1858 was repealed by the Guardians and Wards Act, 1890 (8 of 1890).

[4] The Lunacy (District Courts) Act, 1853. It is printed in General Acts, 1834-67, Ed 1898, p 151.

[5] These words in square brackets were added by the Court of Wards Act (Bengal) Amendment Act, 1892 (4 of 1892), s 8, *post*, p 239.

[6] The Land Registration Act, 1876. It is printed in Vol. IV of this Code.



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THE COURT OF WARDS ACT, 1879

(Part II—*Constitution, Jurisdiction and Powers of the Court of Wards —*  
*Secs 15-19*)

charge by order of a competent Civil Court, is the proprietor of any such property, if not disqualified, might do for its care and management, and

(b) may, in respect of the person of any ward, do all such things as might be lawfully done by the legal guardian of such ward

15. The Court may exercise all or any powers conferred on it by this Act through the Commissioners of the Divisions and the Collectors of the Districts in which any part of the property of the disqualified proprietor may be situated, or through any other person whom it may appoint for such purpose

Exercise through others of powers conferred on Court

The Court may, with the sanction of the Lieutenant Governor, from time to time delegate any of its powers to such Commissioners or Collectors or other person as aforesaid, and may at any time with the like sanction, revoke such delegation

Delegation of powers

[1] 16 The Court may from time to time order such establishments to be entertained and expenses to be incurred as it shall consider requisite for the care and management of the persons and properties under its charge, for superintendence, for the audit of accounts, and generally for all purposes of this Act, and may order that such expense, inclusive of all salaries, gratuities and payments on account of the leave-allowances of such establishments, be charged against any one or more properties for the purposes of which such establishments are, or have been, entertained or such expenses have been incurred

Establishments and expenses

17. [General contribution for general purposes] Rep by the Government Management of Private Estates Act, 1892 (10 of 1892), s 9

18 The Court may sanction the giving of leases or farms of the whole or part of any property under its charge, and may direct the mortgage or sale of any part of such property, and may direct the doing of all such other acts as it may judge to be most for the benefit of the property and the advantage of the ward.

Power to manage property

19. If the Court thinks it expedient to direct the sale or mortgage of any part of an estate of which the ward is the sole proprietor, it may order the

When Court may order property to be

[1] This section was substituted for the original s 16 by s 3 of Ben Act 3 of 1881, post, p 237 The original s 16 ran thus:—

Establishment and expenses

“16 The Court may from time to time order such establishments to be entertained and expenses to be incurred as it shall consider requisite for the care and management of the persons and properties under its charge, for superintendence, for the audit of accounts, and generally for all purposes of this Act,

and may order that the cost of any such establishment and any such expenses be charged against any one or more properties for the purposes of which they are entertained or incurred.”

{Part II.—*Constitution, Jurisdiction and Powers of the Court of Wards*—  
Part III.—*Protection from Sale of certain Estates.*—Secs 20-23)

formed into se-  
parate estate

Collector to partition off such part into a separate estate, and the demand of land-revenue and of the cesses for which the original estate was liable shall be assessed upon and divided between the two separate estates so formed, respectively, in such manner as the Court, with the sanction of the Lieutenant-Governor, may direct

Appointment  
of managers  
and guardians

20 The Court may appoint one or more managers for the property of any ward, and one or more guardians for the care of the person of any ward, under the charge of the Court, and may control and remove any manager or guardian so appointed

Custody, edu-  
cation and  
residence of  
wards

On any disqualified proprietor becoming a ward, the Court may, at its discretion, confirm or refuse to recognize any appointment of a person to be guardian of such disqualified proprietor which may have been made by a will

21 The Court may make such orders as to it may seem fit in respect of the custody, education and residence of a minor ward, and such minor members of the ward's family as are under its charge, and in respect of the custody and residence of any ward, not being a minor, whose person is under the charge of the Court

Allowance for  
ward and his  
family

22 The Court shall allow, for the support of each ward and of his family such monthly sum as it thinks fit (if any) with regard to the rank and circumstances of the parties.

### PART III

#### PROTECTION FROM SALE OF CERTAIN ESTATES

Estate under  
charge of  
Court exempt  
from sale

[1] 23 *Clause 1*—Except as hereinafter provided by section 23A, every estate, and, subject to the provisions of section 14 of Act 11 of 1859 [2], every share or part of an estate for which a separate account has been opened under section 10 or section 11 of the said Act, or under section 70 of Bengal Act 7 of 1876 [3], shall be exempt from sale for arrears of Government revenue which have accrued whilst such estate, share or part has been under the charge of the Court

[1] The sections 23 and 23A here printed were substituted for the original s 23 by s 4 of Ben Act 3 of 1881, *post*, p 237 The original s 23 ran thus —

"23 Every estate, and, subject to the provisions of section 14 of Act 11 of 1859, every part or share of an estate for which a separate account has been opened under section 10 or section 11 of the said Act, or under section 70 of Bengal Act 7 of 1876, shall, whilst it is under the charge of the Court, be exempt from sale for arrears of revenue

"Provided that all arrears of revenue shall be the first charge upon the proceeds of any such estate, part, or share, sold for any other cause than for arrears of revenue while under such charge."

[2] The Bengal Land-revenue Sales Act, 1859 It is printed in Vol IV of this Code.

[3] The Land Regulation Act, 1876 It is printed in Vol IV of this Code

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*(Part III —Protection from Sale of certain Estates —Secs 23A, 24)*

Provided that all such arrears of revenue shall be the first charge upon the sale-proceeds of any estate, share or part which may be sold for any other cause than for such arrears of revenue

*Clause 2* —If at the time when such estate, share or part ceases to be under the charge of the Court of Wards, an arrear of revenue is due on account thereof, the Collector may attach such estate, share or part and collect the rent, cesses and other demands due, and all arrears thereof, managing such estate, share or part either directly or through a manager, or by farming it for a period not exceeding five years, as he may think fit

Recovery of arrears of revenue due at time when estate ceases to be under charge of Court

Provided that, when such estate, share or part has been attached under the provisions of this clause, the proceeds shall be paid to the Collector, and the Collector, after deducting the claims of Government for revenue and other public demands, together with any interest which has accrued upon such public demands other than Government revenue, and the charges of management due up to the date of making such deduction, shall release such estate, share or part from attachment and pay any balance of the proceeds still remaining in his hands to the proprietor of such estate, share or part or to his duly constituted agent, and shall furnish such proprietor or agent with an account of the receipts and expenditure extending over the time when such estate, share or part was under attachment

[1] 23A Notwithstanding anything in clause 5, section 8, Regulation 1 of 1793 [2] or in section 23 of this Act contained, any estate, share or part of an estate on which an arrear of revenue has accrued while under the charge of the Court may at any time be sold under the provisions of the law [3] for the time being in force for the recovery of arrears of Government revenue, if the Court has certified in writing that the interests of the ward require that such estate, share or part be so sold, and has stated in such writing the reasons upon which it has arrived at such conclusion.

Conditions under which estate may be sold for arrear of revenue accrued under Court

24 No estate the sole property of a minor or of two or more minors, and descended to him or them by the regular course of inheritance, or by virtue of the will of, or some settlement made by, some deceased owner thereof, shall be sold for arrears of revenue accruing subsequently to his or their succession to the same, until such minor or one of such minors has completed his age of twenty-one years, but all arrears of revenue shall be the first charge upon the

Restriction on sale for arrears of revenue of estate belonging to minor

[1] S 23 A is new—see the first foot-note on page 222, ante

[2] The Bengal Permanent Settlement Regulation, 1793 It is printed in Vol II of this Code

[3] See the enactments printed under the head " Recovery of Public Demands " in Vol IV of this Code

(Part III—Protection from Sale of certain Estates—Part IV—  
Ascertainment of Disqualification—Secs 25-29)

proceeds of such estate if the estate is sold for any other cause during such minority

Power of  
Collector to  
attach such  
estate

The Collector may, on an annear so accruing on any such estate, attach the estate and collect the rents and all annears of rent due, managing the estate either directly or through a manager or by farming it, as he may think fit, for a period not exceeding ten years, nor extending beyond the time when such minor or one of such minors completes his age of twenty-one years

Section 24  
not to apply  
unless notice  
given

25. The exemption from sale for annears of revenue given by section 24 shall only apply to cases in which a written notice of the fact that the estate is the sole property of one or more minors, and entitled to such exemption, has been served on the Collector before the sale.

Application  
of proceeds of  
estate farmed  
under section  
24

26. When an estate has been farmed under the provisions of section 24, the proceeds of such farm shall be paid to the Collector, and the Collector after deducting the amount of the claims of the Government for revenue and other public demands, and the charges of management, shall either pay the proceeds to the person authorized to receive them for the proprietor, or shall dispose of them in any of the modes mentioned in section 49 or in section 50

## PART IV

### ASCERTAINMENT OF DISQUALIFICATION

Procedure for  
ascertaining  
and declaring  
disqualifica-  
tion

27. Whenever any Collector has reason to believe that any person residing in his district, or being the proprietor of an estate borne on the revenue-roll of his district, should be declared or adjudged to be a disqualified proprietor under section 6, he shall make such inquiry as he may deem necessary, and, if satisfied that such person should be so declared or adjudged, shall make a report of the same to the Court,

and the Court shall, on receipt of such report, make such order consistent with this Act as may seem to it expedient.

Power to  
enforce pro-  
visions of  
Act without  
report

28. Nothing in section 27 shall prevent the Court or the Local Government from putting the provisions of this Act in force without any report from the Collector.

Powers of  
Collector as to  
preservation  
of property on  
death of a  
proprietor  
whose heirs

29. Whenever any Collector receives information that the sole proprietor of an estate which is borne on the revenue-roll of his district has died, or that the sole proprietor of any estate has died within his district, and such Collector has reason to believe that the heirs of such proprietor should be declared or adjudged to be disqualified under section 6, he may take

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*(Part IV—Ascertainment of Disqualification—Secs 30-32)*

such steps and make such orders for the safety and preservation of the moveable property of such heirs, and of all deeds, documents or papers relating to the property of such heirs, as to him may seem fit

should be declared disqualified

Such Collector may call upon any other Collector in whose jurisdiction any such moveable property, or any such deeds, documents or papers may be, to take charge of the same, and thereupon such other Collector shall have the same powers with respect to such property, deeds, documents and papers within his district as are conferred by this section on the first mentioned Collector

If the property is not afterwards taken under the charge of the Court, all expenses incurred by a Collector acting under this section shall be recoverable as arrears of revenue from the owner of such property or the person or persons whom the Collector shall find to be in possession of such property, and shall constitute a demand under Bengal Act 7 of 1868 [1], or any similar law [2] for the time being in force

Recovery of expenses if property is not taken under charge of Court

30. A Collector acting under the last preceding section may direct that any person who has the custody of a minor heir of any such deceased proprietor shall produce such minor before such Collector or before any other Collector on a day fixed, and the Collector before whom the minor is so produced may make such order for the temporary custody and protection of such minor as to him may seem fit

Production of minor proprietor, and order for his temporary custody

If the minor is a female, she shall not be brought into the presence of the Collector, but the Collector may take such steps for her identification as he may think fit

31 If a sole proprietor of an estate, who does not reside within the local limits of the ordinary original civil jurisdiction of the High Court, is reported by a Collector to be of unsound mind and incapable of managing his affairs, the Court may order the Collector making such report, or such other Collector as the Court may appoint, to apply, in pursuance of the provisions of Act 35 of 1854 [3], to the Civil Court of the district within the jurisdiction of which such proprietor may reside

Application to Civil Court in case of lunatics

32. If a sole proprietor of an estate, who does not reside within the local limits of the ordinary original civil jurisdiction of the High Court, is reported by a Collector to be incapable of managing his property on the ground of

Application to Civil Court to make inquiry regarding disqualification

[1] The Bengal Land revenue Sales Act, 1868. It is printed in Vol IV of this Code

[2] See now the Public Demands Recovery Act, 1895 (Ben. Act 1 of 1895), in Vol IV of this Code

[3] The Lunacy (District Courts) Act, 1858. It is printed in the General Acts, 1854 67, Ed 1898, p 151

(Part IV—Ascertainment of Disqualification—Part V—Procedure after  
Ascertainment of Disqualification—Secs 33-35)

fiction on  
ground of  
physical  
defect or  
infirmity

some physical defect or infirmity other than unsoundness of mind, the Court may order the Collector making such report, or such other Collector as the Court may appoint, to apply to the principal Civil Court of the district within which such person may be residing, and upon such Collector so applying such Civil Court shall inquire into and determine the question as to the alleged incapacity

Similar  
application  
when proprie-  
tor resides  
within  
original juris-  
diction of  
High Court  
or beyond  
Bengal

33. If a sole proprietor of an estate, who is resident within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Fort William in Bengal, or resident beyond the territories administered by the Lieutenant-Governor of Bengal, shall be reported by a Collector to be incapable of managing his property by reason of some physical defect or infirmity other than unsoundness of mind, the Court may order the Collector making such report, or such other Collector as the Court may appoint, to apply to the principal Civil Court of the 24-Parganas, or to such other Civil Court as the Lieutenant-Governor, on application made to him by the Collector in that behalf, may determine

Such Civil Court shall thereupon inquire into and determine the question as to the alleged incapacity

Powers and  
duties of  
Courts when  
inquiry is  
instituted  
under section  
32 or 33

34. When any inquiry is instituted by a Civil Court under section 32 or section 33, such Court shall, for the purposes of making such inquiry, have the powers conferred, and proceed in the manner prescribed, by Act 35 of 1858[1] with respect to the inquiries directed to be made by the said Act

The Civil Court shall transmit to the Court of Wards a copy of the order made on each such inquiry, and the Court of Wards shall thereupon, in case the proprietor has been found by the Civil Court to be incapable as aforesaid, make such order, consistent with this Act, as it shall think fit.

The Civil Court shall have, with reference to proprietors who have been adjudged to be incapable as aforesaid, the same powers as are conferred on a Civil Court by section 21 of Act 35 of 1858, [1] with reference to persons adjudged to be of unsound mind and incapable of managing their affairs

## PART V

### PROCEDURE AFTER ASCERTAINMENT OF DISQUALIFICATION

Order declar-  
ing person or  
property to be

35. Whenever the Court has determined to take the person or property of a disqualified proprietor under its charge, whether in accordance with an order

[1] The Lauey (District Courts) Act, 1858. It is printed in the General Acts, 1854-57, Ed. 1898, p. 151.

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(Part V—*Procedure after Ascertainment of Disqualification*—Part VI—*Management and Guardianship*.—Secs 36-39)

of the Civil Court or otherwise, the Court shall make an order declaring the fact and directing that possession be taken of such person and property or of such property on behalf of the Court, and the Court shall be held to be in charge of such property from the time when possession shall have been so taken

under charge  
of Court

36 As soon as conveniently may be after an order is made under the provisions of section 35, the Collector of every district within which any part of the ward's property may be situated, or some person authorized in writing by him in that behalf, shall take possession of all accounts, papers and moveable property of the ward, and place under proper custody such portion thereof as he may think necessary

Collector to  
take possession  
of  
moveable  
property

Any such Collector, or some person authorized as aforesaid, may, in case he has reason to believe that any such account, paper or property is in any room, box or receptacle within any house in the actual possession of the ward, break open the same for the purpose of searching for such account, paper or property.

37. Any such Collector may also order all persons in the employ of the ward, or all persons who were in the employ of the deceased proprietor from whom the ward has derived his property, to attend before him,

Additional  
powers of  
Collector

and may order any person to deliver up any accounts, papers or moveable property belonging to the ward, or any accounts or papers relating to the ward's property, which the Collector has reason to believe are in such person's possession,

and may order all holders of tenures and under-tenures on such property to produce their titles to such tenures and under-tenures.

## PART VI

## MANAGEMENT AND GUARDIANSHIP

38. If no manager of the property of a ward is appointed by the Court, the Collector of the district in which the greater part of such property is situated, or any other Collector whom the Court may appoint in that behalf, shall be competent to do, under the orders of the Court, anything that might be lawfully done by the manager of such property.

Collector  
when to be  
deemed manager

39. Every manager appointed by the Court shall have power to manage all property which may be committed to his charge, to collect the rents of the land entrusted to him, as well as all other money due to the ward, and to grant receipts therefor;

Powers of  
manager.

and may, under the orders of the Court, grant or renew such leases and farms as may be necessary for the good management of the property [1]

General duties  
of manager

40 Every manager shall manage the property committed to him diligently and faithfully for the benefit of the proprietor and shall, in every respect, act to the best of his judgment for the ward's interest as if the property were his own

Specific duties  
of manager

41. Every manager appointed by the Court shall—

- (a) have the care of so much of the property of the ward as the Court may direct ,
- (b) give such security (if any) as the Court thinks fit, to the Collector, duly to account for all such property and for what he shall receive in respect of such property ,
- (c) continue liable to account to the Court, after he has ceased to be manager, for his receipts and disbursements during the period of his management ,
- (d) pass his accounts at such periods and in such forms as the Court may direct ,
- (e) pay the balance due from him thereon ,
- (f) apply for the sanction of the Court to any act which may involve the property in expense not previously sanctioned by such Court ,
- (g) sign all papers, deeds, documents and writings which may be executed by him by virtue of his office ,
- (h) be entitled to such allowance, to be paid out of the property, as the Court may think fit, for his care and pains in the execution of his duties ,
- (i) be responsible for any loss occasioned to the property by his wilful default or gross negligence

General duties  
of guardian.

42. A guardian appointed to the care of a ward shall be charged with the custody of the ward, and must look to his maintenance, health, and, if he be a minor, to his education

Specific  
duties of  
guardian

43 Every guardian appointed by the Court shall—

- (a) give such security (if any) as the Court thinks fit, to the Collector for the due performance of his duty
- (b) pass his accounts at such periods and in such form as the Court may direct ,

[1] As to the grant by the Court of Wards of leases of Ghatwali lands, see the Bengal Ghatwali Lands Act, 1859 (5 of 1859), *post*

As to the right of a manager, appointed by the Court of Wards, to vote for the adoption of a scheme for the reclamation or improvement of lands under the Bengal Drainage Act, 1880 (Ben Act 6 of 1880), see s. 16 (2) of that Act, *post*



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(Part VI — *Management and Guardianship* — Secs 44-48)

- (c) pay the balance due from him thereon,
- (d) continue liable to account to the Court, after he has ceased to be guardian, for his receipts and disbursements during the period of his guardianship,
- (e) apply for the sanction of the Court to any act which may involve expense not previously sanctioned by the Court,
- (f) be entitled to such allowance, to be paid out of the property of the ward, as the Court may think fit, for his care and pains in the execution of his duties

44. No person who would be the next legal heir of a ward, or would otherwise be immediately interested in outliving a ward, shall be appointed to be his guardian,

Exclusion of certain interested persons from guardianship

but nothing in this section shall apply to the mother of a ward or to a testamentary guardian.

45 If the ward is a female, a female of the same religion shall, except in the case of a testamentary guardian, be appointed guardian, preference being given to female relatives if any such be eligible

Who to be guardian of female ward

But no guardian shall ordinarily be appointed or continued for a female ward if she has an adult husband

46 Every sum due to the Court from a manager or guardian or from the sureties of a manager or guardian, or from any officer or servant employed under the Court, or from the sureties of any such officer or servant, shall be recoverable as a demand under Bengal Act 7 of 1868[1] or any similar law[2] for the time being in force

Recovery of sums due to the Court

47 The Court may order any past or present manager or guardian, or past or present officer subordinate to a manager or guardian, to deliver up his accounts or any property which may be in his possession within such time as may be fixed by the Court

Court may order guardian or manager to make over property

[3] 48 All moneys received by the manager shall be applied to the purposes hereinafter mentioned, in accordance with such instructions as the Court may from time to time give in that behalf. Unless the Board of Revenue shall specially otherwise direct, priority shall be given to the purposes included under Class I over those included in Class II, and priority shall be given to the purposes included in Class II over those included in Class III.

Application of moneys received by manager

[1] The Bengal Land revenue Sales Act, 1868. It is printed in Vol. IV of this Code

[2] See now the Public Demands Recovery Act, 1895 (Ben Act 1 of 1895) in Vol IV of this Code.

[3] This section was substituted for the original s 48 by the Bengal Court of Wards (Amendment) Act, 1881 (Ben. Act 3 of 1881), s. 5, *post*, p. 237.

## CLASS I

The payment of all charges necessary for the maintenance, education and religious observances of the ward and his family,  
 for the management and supervision of the property of the ward,  
 and the discharge of the instalments of Government revenue and of all cesses and other public demands from time to time due in respect of such property or any part of such property

## CLASS II

The payment of all rents, cesses and other demands due to any superior landlords in respect of any land held on behalf of the ward,  
 the liquidation of debts payable by the ward,  
 the payment of all expenses which may be necessary to protect the interests of the ward in the Civil Courts or otherwise,  
 the maintenance in an efficient condition of the estates, buildings and other immoveable property belonging to the ward, and  
 the payment of such religious, charitable and other allowances as were paid out of the proceeds of the property before it came under the charge of the Court, and such allowances and donations befitting the position of the ward's family as the Court may authorize to be paid

## CLASS III

The improvement of the land and property of the ward, and the benefit of the ward and his property generally

*Amount to be  
expended on  
improvement.*

[*Provided that the amount expended for such improvement and benefit in any one year shall not exceed ten per centum of the surplus which the accounts of the previous year may show to have been available after paying or making provision for the payment of all expenses incurred up to the end of such previous year, unless, in the opinion of the Court and of the Lieutenant-Governor, it is desirable for the protection or in the interests of the ward or his property to expend an amount exceeding such percentage*] *This proviso was repealed by section 9 of the Court of Wards Act (Bengal) Amendment Act, 1892 (4 of 1892), but is reprinted as being referred in section 49 of the present Act.*

*Disposal of  
surplus  
moneys*

11 49. If the ward is a female of sound mind, who has completed her age of twenty-one years, or a male who has completed his age of twenty-one

[1] This section was substituted for the original s. 49 by s. 5 of the Bengal Court of Wards (Amendment) Act, 1881 (Ben. Act 3 of 1881), *post*, p. 237.

As to the application of section 49, see also section 26, *ante*, p. 224.

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*(Part VI—Management and Guardianship—Sec 50)*

years, whose property [1] [is under the charge of the Court under clause (e) of section 6, or under the second clause of section 11], no part of the surplus mentioned in the proviso to the section immediately preceding shall be expended by the Court otherwise than in the liquidation of debts or in the improvement of the lands or property as aforesaid

Any portion of such surplus remaining, after provision has been made for such purposes, shall be paid to such ward

Provided that, before paying any portion of such surplus to such ward, the Court may deduct therefrom and retain at its disposal any sums which it may consider necessary to retain—

- (1) as a working balance for the management of the property and expenses incidental thereto,
- (2) in order to make provision for any special charges which are expected to become payable on account of the property, and which probably cannot be met from the expected surplus of the following years

50. If the ward is not a female or [2] [male] as aforesaid, and if any surplus remains after providing, so far as the Court may think fit, for the objects mentioned in [3] [section 48,] the same shall be applied in the purchase of other landed property, or invested at interest on the security of—

Power to invest surplus

promissory notes, debentures, stock and other securities of the Government of India or of the United Kingdom of Great Britain and Ireland;

bonds, debentures and annuities charged by the Imperial Parliament on the revenues of India,

stock or debentures of or shares in railway or other companies, the interest whereon has been guaranteed by the Secretary of State for India in Council;

debentures or other securities for money paid by or on behalf of any municipal body under the authority of any Act of a legislature established in British India, or

such other securities, stocks or shares, guaranteed by the Government of India or the Government of Bengal, as to the Court shall seem fit [4].

[1] The words in square brackets in s 49 were substituted for the words "remains under the charge of the Court with his consent under section 11" by the Court of Wards Act (Bengal) Amendment Act, 1892 (4 of 1892), s. 10, *post*, p. 239.

[2] The word "male" in s 50 was substituted for the word "person" by the Bengal Court of Wards (Amendment) Act, 1881 (Ben. Act 3 of 1881), s. 6, *post*, p. 237.

[3] The word and figures "section 48" in s 50 were substituted for the word and figures "section 49" by the same Act and section.

[4] As to the application of section 50, *see* also section 26, *ante*, p. 224

## PART VII

## SUITS

Manager or  
Collector to, be  
next friend or  
guardian in  
suits by or  
against ward

51 In every suit brought by or against any ward he shall be therein described as a ward of Court, and the manager of such ward's property, or, if there is no manager, the Collector of the district in which the greater part of such property is situated, or any other Collector whom the Court of Wards may appoint in that behalf, shall be named as next friend or guardian for the suit, and shall in such suit represent such ward, and no other person shall be ordered to sue or be sued as next friend or be named as guardian for the suit by any Civil Court in which such suit may be pending

Power of  
Court of  
Wards to nomi-  
nate another  
person to be  
next friend  
or guardian  
for suit

52 The Court of Wards may, by an order, nominate or substitute any other person to be next friend or guardian for any such suit, and, upon receiving a copy of any such order of substitution, the Civil Court in which such suit is pending shall substitute the name of the next friend or guardian for the suit so appointed for the name of the manager or Collector

Payment of  
costs

53. If in any such suit any Civil Court shall decree any costs against the next friend or guardian for the suit of the ward, the Court of Wards shall cause such costs to be paid out of any property of the ward which for the time being may be in its hands

Service of  
process  
against wards.

54 Every process which may be issued out of any Civil Court against any ward shall be served, through the Collector, upon the next friend or guardian for the suit as aforesaid of such ward

Suits not to  
be brought on  
behalf of  
wards unless  
authorized by  
the Court of  
Wards

55. No suit shall be brought on behalf of any ward<sup>[1]</sup> [by a manager] unless the same be authorized by some order of the Court

Provided that a manager may authorize a plaint to be filed in order to prevent a suit from being barred by the law of limitation, but such suit shall not be afterwards proceeded with except under the sanction of the Court

Provided also that suits for arrears of rent may be brought on behalf of any ward if authorized by an order of the manager of the landed property on which such rents are due

Saving of  
suits in High  
Court, and  
of persons who  
consent to  
remain wards

56. Nothing contained in this Part shall apply to any suit instituted or pending in the High Court, or to a proprietor<sup>[2]</sup> [whose property is under the charge of the Court under clause (e) of section 6, or under the second clause of section 11.]

[1] The words "by a manager" in s. 55 were inserted by the Bengal Court of Wards (Amendments) Act, 1881 (Ben. Act 3 of 1881), *post*, p. 237

[2] The words in square brackets in s. 56 were substituted for the words "who has consented to leave his property under the charge of the Court of Wards, as provided in the second clause of section 11." by the Court of Wards Act (Bengal) Amendment Act, 1892 (4 of 1892), s. 11, *post*, p. 239.

of 1879.]

THE COURT OF WARDS ACT, 1879.

(Part VIII — Penalties — Secs 57-58A)

## PART VIII

## PENALTIES

57 Any person who refuses to comply with an order of a Collector under sections 29, 30, 36 or 37 shall be liable, by order [1] of the Collector, to a fine not exceeding five hundred rupees.

For disobeying certain orders of Collector

58. Any person who refuses to comply with an order made under section 47 may be punished, by order [1] of the Court, with simple imprisonment and attachment of his property until the order is complied with

For disobeying orders under section 47

[2] [Provided that the Collector may release any person who has been so imprisoned, on his furnishing sufficient security for his attendance and for the delivery of the accounts or property required within such time as the Collector shall think fit. The Collector may, at any time, rescind such order of release, and direct that effect shall be given to the previous order of imprisonment].

[3] 58A. Any farmer, holding or having held lands under the Court, who, upon notice served upon him to that effect at any time during the currency of the lease or within six months after the expiry of the lease under which such lands were held or after he has relinquished such lands, omits or refuses to furnish accounts or produce documents or papers required under such notice, and shall not show sufficient cause for such omission or refusal, shall be liable to such fine as the Collector may think fit to impose, not exceeding one hundred rupees, for such omission, and the Collector may impose such further daily fine as he may think proper, not exceeding twenty rupees for each day during which such farmer shall omit to furnish the accounts, documents or papers required after a date to be fixed by the Collector in a notice warning the farmer that such further daily fine will be imposed.

Penalty on farmer neglecting to furnish accounts, etc

Such notice shall be served by tendering to the person to whom it may be directed a copy thereof, attested by the Collector, or by delivering such copy at the usual place of abode of such person or to some adult male member of his family, or, in case it cannot be so served, by posting some copy upon such conspicuous part of the usual or last-known place of abode of such person, and, in case such notice cannot be served in any of the ways hereinbefore mentioned, it shall be served in such a way as the Collector issuing the notice may direct,

[1] A formal record must be made when an order is passed under s 57 or s 58—see s 64, *post*, p 235

[2] This proviso was added to s 58 by the Bengal Court of Wards (Amendment) Act, 1881 (Ben Act 3 of 1881), s. 8, *post*, p. 237.

[3] S 58A was inserted by s. 9 of the same Act *post*, p 238

and the date fixed by such notice shall not be less than fifteen days after service thereof

The Collector may proceed from time to time to levy any amount which has become due in respect of any fine imposed under this section, notwithstanding that an appeal against the order imposing such fine may be pending

Provided that, whenever the amount levied under such order shall have exceeded five hundred rupees, the Collector shall report the case specially to the Commissioner of the division, and no further levy in respect of such fine shall be made otherwise than by the authority of the said Commissioner

For disobeying  
order of Court,

59 Any person who disobeys any lawful order of the Court shall be liable, on conviction before a Magistrate, to a fine not exceeding five hundred rupees and, if he is a manager or guardian appointed by the Court, to a fine not exceeding one thousand rupees

## PART IX

### MISCELLANEOUS

Disabilities  
of wards

60. No ward shall be competent to create, without the sanction of the Court, any charge upon, or interest in, his property or any part thereof, [1] [or to assign over or charge any allowance to be received by him from the Court]

Exemption  
of wards' pro-  
perty from  
execution  
proceedings  
in certain  
cases  
Adoption by  
ward invalid  
without con-  
sent of  
Lieutenant  
Governor

[2] 60A. No property which is or has been under the charge of the Court shall be liable at any time, except with the leave of the Court, to be taken in execution of a decree made in respect of any contract entered into by the ward without the leave of the Court while his property was under such charge

61. No adoption by any ward, and no written or verbal permission to adopt given by any ward, shall be valid without the consent of the Lieutenant-Governor, obtained either previously or subsequently to such adoption, or to the giving of such permission, on application made to him through the Court

62. Nothing contained in section 60 or in section 61 shall apply to a proprietor who has consented to leave his property under the charge of the Court as provided in the second clause of section 11

63. [Arrears of rent how recoverable]. *Rep. by the Public Demands Recovery Act, 1880 (Bengal Act 7 of 1880).*

[1] These words in square brackets were added to s 60 by the Court of Wards Act (Bengal) Amendment Act, 1892 (4 of 1892), s 12, *post*, p. 239

[2] S. 60A was inserted by s.13 of the same Act.

Sections 60  
and 61 not  
to apply in  
certain cases.

of 1879 ]

THE COURT OF WARDS ACT, 1879

*(Part IX — Miscellaneous — Secs 63 66 )*

[1] 63. Any amount of interest which has accrued due, on arrears of rent or other demand recoverable as rent payable to the manager of an estate which is in charge of the Court, may be recovered in any manner and by any process according to which such arrears may be recovered under any law [2] for the time being in force, and any Court or officer who is competent to make an order or certificate in execution of which such arrears or other demand are recoverable may direct that any costs incurred by the manager in obtaining such order or certificate, and in executing the same, shall be recovered in the same manner and by the same process as if the amount thereof had been included in the said order or certificate

Recovery of interest on arrears of rent

64 When any penalty is imposed by any order under section 57 or section 58, the Collector or Court passing such order shall make a formal record of the same, with the reasons or grounds thereof

Record of reasons when penalty imposed under section 57 or 58  
Procedure when Court's jurisdiction ceases

65 Whenever the Court has determined to release the property of a ward from its charge, it shall make an order that the jurisdiction of the Court over such property shall cease on a date not more than sixty and not less than fifteen days from the date of such order, and copies of such order shall be published as the Court may direct

[3] 65A Any expense incurred by the Court on account of any property under its charge may, after the release of such property, be recovered as a demand, under Bengal Act 7 of 1880 [4] or any other Act [5] at the time being in force for the recovery of public demands, from any person into whose possession such property or any part thereof may have passed immediately after the release by the Court of such property :

Recovery of expenses after release of property

Provided that the sum so recovered from any such person shall not be greater than the value of any such property which so passed into the possession of such person

10 of 1877

66. A Collector making any inquiry under this Act may exercise any power conferred by the Code of Civil Procedure [6] on a Civil Court for the trial of suits

Judicial powers of Collector in making inquiries

[1] This new section 63 was enacted by the Bengal Court of Wards (Amendment) Act, 1881 (Ben Act 3 of 1881), s 10, *post*, p 238

[2] See the enactments printed under the head of "Landlord and Tenant" in Vol II of this Code

[3] Section 65A was inserted by the Bengal Court of Wards (Amendment) Act, 1881 (Ben Act 3 of 1881), s 11, *post*, p 238

[4] Ben Act 7 of 1880 was repealed by the Public Demands Recovery Act, 1895 (Ben Act 1 of 1895)

[5] See now the Public Demands Recovery Act, 1895 (Ben Act 1 of 1895), in Vol IV of this Code

[6] This reference to Act 10 of 1877 should now be read as applying to the Code of Civil Procedure, 1882 (Act 14 of 1882)—*see* s. 3 of that Code, in General Acts, 1882-84, Ed 1896, p 264

## THE COURT OF WARDS ACT, 1879 [Ben Act 9 of 1879 ]

*(Part IX—Miscellaneous—Secs. 67-70)*

**Appeals**            **67** An appeal shall lie from every order of a Collector under this Act to the Commissioner of the division, and from every order of a Commissioner under this Act to the Court

**Control by Court**           **68** All orders or proceedings of the Commissioner and of the Collector under this Act shall be subject to the supervision and control of the Court, and the Court may, if it thinks fit, revise, modify or reverse any such order or proceeding, whether an appeal is presented against such order or proceeding or otherwise

**Control by Lieutenant Governor**   **69** In the exercise of the powers and in the discharge of the duties conferred and imposed respectively on the Court by this Act, the Court shall be guided by such orders and instructions as it may from time to time receive from the Lieutenant-Governor

**Power to Court to make rules**   **70** The Court may make rules, [1] consistent with this Act,—

- (a) defining the powers of Commissioners and Collectors respectively when the property of a ward is situated in two or more districts or in two or more divisions,
- (b) prescribing what reports shall be made from time to time by Collectors and Commissioners on the condition of the ward and his property,
- (c) prescribing the periods at which and the mode in which accounts shall be submitted by managers and guardians respectively, and the mode in which such accounts shall be audited,
- (d) regulating the custody of securities and title deeds belonging to the estate or property of a ward,
- (e) regulating the procedure in appeals from orders of Collectors and Commissioners respectively under this Act,
- (f) prescribing the procedure to be observed when a property ceases to be under the charge of the Court,
- (g) and generally for the better fulfilment of the purposes of this Act,

The Court may from time to time alter, add to or repeal such rules

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[1] As to rules, *see* foot note on p 216, *ante*



[Ben Act 3 of 1881] AMENDING ACT

(Secs. 1-8)

THE BENGAL COURT OF WARDS (AMENDMENT) ACT,  
1881<sup>[1]</sup>

(BENGAL ACT 3 OF 1881)

[25th May, 1881]

## An Act to amend the Court of Wards Act, 1879

WHEREAS it is expedient to amend the Court of Wards Act, 1879, It is Preamble  
enacted as follows —

Ben Act, 9 of  
1879

1 This Act shall be read and taken as part of the Court of Wards' Act, 1879 Construction  
[Commencement] Rep by the Repealing and Amending Act, 1897  
(5 of 1897)

2 [Repeal] Rep by the Repealing and Amending Act, 1897 (5 of  
1897)

3 For sections 16 and 17 [2] of Bengal Act 9 of 1879 the following Amendment  
sections shall be substituted — of sections 16  
and 17 of  
Ben Act 9  
of 1879

[Printed ante, p 221]

4 For section 23 of the same Act the following sections shall be substi- Amendment  
tuted, namely — of section 23

23 23A [Printed ante, pp 222 and 223]

5 The following sections shall be substituted for sections 48 and 49 of the Amendment  
same Act — of sections 48  
and 49

48, 49 [Printed ante, pp 229 and 230]

6. In section 50 of the same Act, for the word "person" the word Amendment  
"male" shall be substituted, and for the word and figures "section 49" the of section 50  
word and figures "section 48" shall be substituted.

7 In section 55 of the same Act, after the words "shall be brought on Amendment  
behalf of any ward," the words "by a manager" shall be inserted of section 55

8. To section 58 of the same Act the following words shall be added, Amendment  
namely — of section 58.

[Printed ante, p 233.]

[1] SHORT TITLE — This short title was given by the Repealing and Amending Act, 1903  
(1 of 1903), printed ante, p '8

LEGISLATIVE PAPERS — For Statement of Objects and Reasons, see Calcutta Gazette, 1881,  
Pt. IV, p. 9, and for Proceedings in Council, see *ibid*, Supplement, 1881, pp 143, 189, 243,  
255 and 285.

LOCAL EXTENT — Since this Act is (see section 1) to be "read and taken as part of" Bengal  
Act 9 of 1879, its local extent is the same as that of the latter Act, as to which see foot-note [1] on  
p 215, ante

[2] So much of Bengal Act 3 of 1881 as related to section 17 of the Court of Wards Act, 1879  
(Ben. Act 9 of 1879) was repealed by section 9 of the Government Management of Private Estates  
Act, 1892 (10 of 1892), printed in General Acts, 1891-98, Ed 1899, p 90

New section introduced between sections 58 and 59

9 The following section shall be inserted between section 58 and section 59 of the same Act —

58A [Printed *ante*, p 233]

New section substituted for repealed section 63

10 Instead of the repealed section 63 of the same Act, the following section shall be read, namely —

63 [Printed *ante*, p 235]

New section introduced after section 65.

11 After section 65 of the same Act the following section shall be inserted, namely —

65A [Printed *ante*, p 235]

## THE COURT OF WARDS ACT (BENGAL) AMENDMENT ACT, 1892 <sup>[1]</sup>

(ACT 4 OF 1892)

[25th March, 1892]

### An Act to amend the Bengal Court of Wards Act, 1879

WHEREAS it is expedient to amend the Court of Wards Act, 1879, <sup>[2]</sup> passed by the Lieutenant-Governor of Bengal in Council, It is hereby enacted as follows —

Ben Act 9 of 1879

Construction

1. (1) This Act shall be read with, and taken as part of, the Act aforesaid;

[Commencement] *Rep. by the Repealing and Amending Act, 1903 (1 of 1903)*

Addition to section 3

2. In section 3, at the end of the clause defining "estate" the following words shall be added, namely — "and includes a share in or of an estate other than an undivided share held in coparcenary as the property of a Hindu joint family governed by the *Mitakshara* or *Mithila* law"

[1] SHORT TITLE — This short title was given by the Amending Act, 1897 (5 of 1897), printed *ante*, p 15

LEGISLATIVE PAPERS — For Statement of Objects and Reasons, see Gazette of India, 1892, Pt V, p. 17; for Report of Select Committee, see *ibid*, p 23; and for Proceedings in Council, see *ibid*, Pt VI, pp. 20, 25 and 42.

LOCAL EXTENT — Since this Act is (see section 1) to be "read with and taken as part of" Bengal Act 9 of 1879, its local extent is the same as that of the latter Act, as to which see footnote [1] on p. 215, *ante*

[2] Printed, *ante*, p. 215

[Act 4 of 1892.]

## AMENDING ACT

(Secs 3-13)

3. To section 6 the following clause shall be added, namely — Addition to section 6  
 (e) [Printed, *ante*, p 218 ]
- 4 To section 7 the following proviso shall be added, namely — Addition to section 7  
 [Printed *ante*, p 218 ]
- 5 At the end of section 9 the following shall be added, namely — Addition to section 9  
 [Printed *ante*, p 219 ]
- 6 In section 10, in the place of the first two clauses the following shall be inserted, namely — Amendment of section 10  
 [Printed *ante*, p 219 ]
- 7 For section 11 the following section shall be substituted, namely — Substitution of new section 11  
 [Printed *ante*, p 220 ]
8. In section 12, for the words “ which before the commencement of this Act was placed,” the following words shall be substituted, namely —“ which either before or after the commencement of this Act was or is placed,” and at the end of the first clause, after the figures 1858, the following words shall be added, namely —“ or under any other enactment for the time being in force ” Amendment of section 12
- 9 [Repeal of proviso in Class III, section 48] Rep by the Repealing and Amending Act, 1897 (5 of 1897).
10. In section 49, for the words “ remains under the charge of the Court with his consent under section 11,” the following words shall be substituted, namely —“ is under the charge of the Court under clause (e) of section 6, or under the second clause of section 11 ” Amendment of section 49
11. In section 56, instead of the words “ who has consented to leave his property under the charge of the Court of Wards, as provided in the second clause of section 11,” the following words shall be substituted, namely — “ whose property is under the charge of the Court under clause (e) of section 6, or under the second clause of section 11 ” Amendment of section 56
- 12 To section 60 the following words shall be added, namely — “ or to assign over or charge any allowance to be received by him from the Court ” Addition to section 60
- 13 After section 60 the following section shall be inserted, namely — Insertion of new section after section 60  
 60A [ Printed *ante*, p. 234.]

# CRIMINAL TRIBES AND EUNUCHS.

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Act 7 of 1876	. the Criminal Tribes (Amendment) Act, 1876	„ 252
Act 2 of 1897	. the Criminal Tribes Act Amendment Act, 1897	„ 253

## THE CRIMINAL TRIBES ACT, 1871

(ACT 27 OF 1871).

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## [Act 27 of 1871] THE CRIMINAL TRIBES ACT, 1871

(Preamble)

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## THE CRIMINAL TRIBES ACT, 1871

(ACT 27 OF 1871) [1]

[19th October, 1871]

## An Act for the Registration of Criminal Tribes and Eunuchs.

WHEREAS it is expedient to provide for the registration, surveillance and Preamble.

[1] LEGISLATIVE PAPERS — For Statement of Objects and Reasons, *see* Gazette of India, 1870, Pt V, p 491, and for Proceedings in Council, *see ibid*, Supplement, 1870, pp 1200 and 1344, Supplement, 1871, pp 211, 1055, 1182, 1217 and 1415

LOCAL EXTENT — This Act extends to the whole of Bengal—*see* s 2

It has, along with the Amending Act, 7 of 1876, been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s 3, to be in force in the following Scheduled Districts, namely —

the Hazaribagh, Ranchi, Palamau and Manbhum Districts, and Pargana Dhalbhum and the Kolban in the Singhbhum District, in the Chota Nagpur Division—*see* Vol V, Pt V B(6)

The application of the Act is barred—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s 3(2), *post*,  
in the Chittagong Hill-tracts, by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s 4(2), *post*, and

in the Southal Parganas, by the Southal Parganas Settlement Regulation, 1872 (3 of 1872), s 3 (2), as amended by the Southal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s 3, *post*

REPRINT — The Act has been reprinted (by the Legislative Department of the Government of India) as modified by subsequent legislation up to the 1st February, 1897.

(Secs 1, 1A —Part I—Criminal Tribes—Secs 2, 3)

control of certain criminal tribes and eunuchs, It is hereby enacted as follows —

- Short title      1 This Act may be called the Criminal Tribes Act, 1871  
                     [Commencement]    *Rep by the Repealing Act, 1874 (16 of 1874)*
- Local extent      This section and section 20 extend to the whole of British India the rest of this Act extends only to the territories under the governments of the Lieutenant-Governors of [1] [Bengal], the North-Western Provinces [2] and the Punjab respectively, and under the administration of the Chief Commissioner of Oudh [2]
- [3] [Provided that any Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, declare all or any of the provisions of this Act, as amended by subsequent legislation, to be in force in the whole or any part of the territories under its Government]
- Definition of  
 "tribe,"  
 "gang" and  
 "class"      [4] 1A In this Act the words "tribe," "gang" and "class" shall be deemed to include any portion or members of a tribe, gang or class

## PART I

### CRIMINAL TRIBES

- Local Gov  
 ernment to  
 report what  
 tribes should  
 be declared  
 criminal      2. If the Local Government has reason to believe that any tribe, gang or class of persons is addicted to the systematic commission of non-bailable offences, it may report the case to the Governor General in Council, and may request his permission to declare such tribe, gang or class to be a criminal tribe
- Report to  
 contain cer  
 tain particu  
 lars.      3 The report shall state the reasons why such tribe, gang or class is considered to be addicted to the systematic commission of non-bailable offences, and, as far as possible, the nature and the circumstances of the offences in which the members of the tribe are supposed to have been concerned, and shall describe the manner in which it is proposed that such tribe, gang or class shall

[1] The word "Pengal" in square brackets in s 1 was inserted by the Criminal Tribes (Amendment) Act, 1876 (7 of 1876), s 1, *post*, p 252

[2] The Lieutenant-Governor of the former North Western Provinces and Oudh is now designated "the Lieutenant Governor of the United Provinces of Agra and Oudh"—*see* the United Provinces (Designation) Act, 1902 (7 of 1902), in General Acts, 1899-03, Ed 1904, p 200

[3] This proviso was added to s. 1 by the Criminal Tribes Act Amendment Act, 1897 (2 of 1897), s. 2, *post*, p. 253

[4] S. 1A was inserted by s 3 of the same Act

of 1871 ]

## THE CRIMINAL TRIBES ACT, 1871

*(Part I—Criminal Tribes Secs 4-8)*

earn its living when the provisions hereinafter contained have been applied to it

4 If such tribe, gang or class has no fixed place of residence, the report shall state whether such tribe, gang or class follows any lawful occupation, and whether such occupation is, in the opinion of the Local Government, the real occupation of such tribe, gang or class, or a pretence for the purpose of facilitating the commission of crimes, and shall set forth the grounds on which such opinion is based, and the report shall also specify the place of residence in which such wandering tribe, gang or class is to be settled under the provisions hereinafter contained, and the arrangements which were proposed to be made for enabling it to earn its living therein

Occupation of wandering tribe to be stated,

also proposed residence and means of livelihood

5. If, upon the consideration of any such report, the Governor General in Council is satisfied that the tribe, gang or class to which it relates ought to be declared criminal, and that the means by which it is proposed that such tribe, gang or class shall earn its living are adequate, he may authorize the Local Government to publish in the local Gazette a notification declaring that such tribe, gang or class is a criminal tribe, and thereupon the provisions of this Act shall become applicable to such tribe, gang or class

Notification declaring tribe to be criminal

6 No Court of Justice shall question the validity of any such notification on the ground that the provisions hereinbefore contained, or any of them, have not been complied with, or entertain in any form whatever the question whether they have been complied with, but every such notification shall be conclusive proof that the provisions of this Act are applicable to the tribe, gang or class specified therein

Bar of jurisdiction of Courts in questions relating to notification

7 When the notification mentioned in section 5 has been published, the Local Government may direct the Magistrate of any district in which such tribe, gang or class, or any part thereof, is at the time resident, to make a register of the members of such tribe, gang or class, or of any part thereof

Register of members of such tribes

The declaration of the Local Government that any such tribe, gang or class, or any part of it, is resident in any district shall be conclusive proof of such residence

8 Upon receiving such direction the said Magistrate shall publish a notice in the place where the register is to be made, calling upon all the members of such tribe, gang or class, or of such portion thereof as is directed to be registered, to appear, at a time and place therein specified, before such persons as he appoints, and to give those persons such information as may be necessary to enable them to make the register.

Procedure in making register

Penalties for failing to appear, refusing or giving false information

9 Any member of any such tribe, gang or class, who, without lawful excuse, the burthen of proving which shall lie upon him,—

shall fail to appear according to such notice,

or who shall intentionally omit to furnish such information,

or who shall furnish, as true, information on the subject which he knows or has reason to believe to be false,

shall be deemed guilty of an offence under the first parts of section 174, or 176, or 177 of the Indian Penal Code,<sup>[1]</sup> respectively, as the case may be

45 of 1860

Charge of register Reporting desirable alterations

By whom alterations to be made

Notice to persons affected

Complaints of entries in register

10 The register, when made, shall be kept by the District Superintendent of Police, who shall, from time to time, report to the said Magistrate any alterations which ought to be made therein, either by way of addition or erasure

11. No alteration shall be made in such register except by or by order of the said Magistrate, and he shall write his initials against every such alteration. Notice shall be given of any such intended alteration, and of the time when, and place where, it is to be made, to every person affected thereby

12. Any person deeming himself aggrieved by any entry made, or proposed to be made, in such register, either when the register is first made or subsequently, may complain to the said Magistrate against such entry, and the Magistrate shall retain such person's name on the register, or enter it therein or erase it therefrom, as he may see fit

Every order for the erasure of any such person's name shall state the grounds on which such person's name is erased

The Commissioner shall have power to review any order of entry, retention or erasure passed by the said Magistrate on any such complaint, either on appeal by the person registered or proposed to be registered, or otherwise

Settlement of tribe in place prescribed by Local Government Removal to other place

13. Any tribe, gang or class, which has been declared to be criminal, and which has no fixed place of residence, may be settled in a place of residence prescribed by the Local Government

14 Any tribe, gang or class which has been declared to be criminal, or any part thereof, may, by order of the Local Government, be removed to any other place of residence

Arrangements to be made prior to settlement or removal.

15. No tribe, gang or class shall be settled or removed under the provisions of this Act until such arrangements as the Local Government shall, with the concurrence of the Governor General in Council, consider suitable, have been made for enabling such tribe, gang or class, or such part thereof as is to be so settled or removed, to earn a living in the place in or to which it is to be settled or removed.



of 1871 ]

## THE CRIMINAL TRIBES ACT, 1871

*(Part I—Criminal Tribes—Secs 16-18)*

16. When the removal of any persons has been ordered under this Act, the register of such persons' names shall be transferred to the District Superintendent of Police of the district to which such persons are removed, and the Magistrate of the said district and the Commissioner of the division in which it is situated shall thereupon be empowered to exercise respectively the powers provided in sections 11 and 12

Transfer of  
register of  
persons  
ordered to be  
removed

17 The Local Government may, with the sanction of the Governor General in Council, place any tribe, gang or class, which has been declared to be criminal, or any part thereof, in a reformatory settlement

Power to  
place tribe in  
reformatory  
settlement

[1]17A (1) The Local Government may establish and maintain reformatory settlements for children and may separate and remove from their parents and place in such a reformatory settlement the children of the registered members of any tribe, gang or class which has been declared to be criminal

Power to  
place children  
in reforma-  
tory settle-  
ments estab-  
lished for  
children and  
to apprentice  
them

(2) For every reformatory settlement for children established under subsection (1), a Superintendent shall be appointed by the Local Government

(3) The Superintendent of a reformatory settlement for children shall be deemed to be the guardian, within the meaning of Act No 19 of 1850 (*concerning the binding of apprentices*), [3] of every child detained in such settlement, and such Superintendent may, if he shall think fit, and subject to any rules which the Local Government may make in this behalf, apprentice such child under the provisions of the aforesaid Act.

*Explanation*—The term "children" in this section includes all persons under the age of eighteen and above the age of four years

18. The Local Government may, with the previous consent of the Governor General in Council, make rules to prescribe—

Power to  
make rules

(1) the form in which the register shall be made by the said Magistrate,

(2) the mode in which the said Magistrate shall publish the notice prescribed in section 8, and the means by which the persons whom it concerns, and the headmen, village-watchmen and landowners or occupiers of the village, in which such persons reside, [3] [or the agents of such landowners or occupiers,] shall be informed of its publication,

(3) the mode in which the notice prescribed in section 11 shall be given;

[1] S 17 A was inserted by the Criminal Tribes Act Amendment Act, 1897 (2 of 1897), s 4, *post*, p 253

[2] The Apprentices Act, 1850 It is printed in General Acts, 1834-67, Ed. 1893, p 64

[3] These words in square brackets in s. 18, cl. (2), were inserted by the Criminal Tribes Amendment) Act, 1876 (7 of 1876), s 2, *post*, p. 252.

- (4) the limits within which persons whose names are on the register shall reside ,
- (5) conditions as to holding passes under which such persons may be permitted to leave the said limits ,
- (6) conditions to be inserted in any such pass as to—
  - (a) the places where the holder of the pass may go or reside ,
  - (b) the officers before whom, from time to time, he shall be bound to present himself ,
  - (c) and the time during which he may absent himself ,
- (7) conditions as to answering at roll-call or otherwise, in order to satisfy the said Magistrate, or persons authorized by him, that the persons whose names are on the register are actually present at given times within the said limits ,
- (8) the inspection of the residences and villages of any such tribe, gang or class, and the prevention or removal of contrivances for enabling the residents therein to conceal stolen property, or to leave their place or residence without leave ,
- (9) the terms upon which registered persons may be discharged from the operation of this Act ,
- (10) the mode in which criminal tribes shall be settled and removed ,
- (11) the control and supervision of reformatory settlements ,
- (12) the works on which, and the hours during which, persons placed in a reformatory settlement shall be employed, the rates at which they shall be paid, and the disposal, for the benefit of such persons, of the surplus proceeds of their labour after defraying the whole or such part of the expenses of their supervision and control as to the Local Government shall seem fit ,
- (13) the discipline to which persons endeavouring to escape from any such settlement, or otherwise offending against the rules for the time being in force, shall be submitted ; the periodical visitation of such settlement, and the removal from it of such persons as it shall seem expedient to remove ,
- (14) and generally to carry out the purposes of this Act.

Penalties for  
breach of  
rules.

[1] 19. (1) Any person registered under this Act violating a rule made under clause (4), clause (5) or clause (6) of section 18 shall be punishable with rigorous imprisonment for a term which may extend, on a first conviction, to

*This section was substituted for the original s. 19 by the Criminal Tribes Act Amendment Act, 1897, (2 of 1897), s. 5, post, p. 253.*

of 1871 ]

THE CRIMINAL TRIBES ACT, 1879

*(Part I — Criminal Tribes — Secs 19A-20)*

one year, on a second conviction, to two years, and, on any subsequent conviction, to three years, and shall also, whether on the first or any subsequent conviction, be liable to whipping

(2) Any person being a member of a proclaimed tribe violating a rule made under any other clause of section 18 shall be punishable with rigorous imprisonment for a term which may extend to six months, or with fine, or with whipping, or with all or any two of those punishments, and, on any subsequent conviction for a breach of any such rule, with rigorous imprisonment for a term which may extend to one year, or with fine, or with whipping, or with all or any two of those punishments

45 of 1860

[1] 19A Whoever, being a member of any tribe, gang or class which has been declared criminal, and having been convicted of any of the offences under the Indian Penal Code<sup>[2]</sup> specified in the schedule to this Act, shall thereafter be convicted of the same or any other offence specified in the said schedule, then he shall, in the absence of special reasons to the contrary to be mentioned in the judgment of the Court, be punished, on such second conviction, with rigorous imprisonment for a term of not less than seven years, and on a third conviction with transportation for life

Enhanced  
punishment  
for certain  
offences by  
members of  
criminal  
tribe after  
previous  
conviction

Nothing in this section shall affect the liability of such person to any further or other punishment to which he may be liable under the Indian Penal Code<sup>[2]</sup> or any other law

[1] 19B Whoever, being a registered member of any tribe, gang or class which has been declared criminal, is found in any place under such circumstances as to satisfy the Court that he was about to commit, or aid in the commission of, theft or robbery, or that he was waiting for an opportunity to commit theft or robbery, shall be punishable with rigorous imprisonment for a term which may extend to three years, and shall also be liable to fine.

Punishment  
for members  
of criminal  
tribe found  
under suspi-  
cious circum-  
stances

20. Any person registered under the provisions of this Act, who is found in any part of British India, beyond the limits so prescribed for his residence, without such pass as may be required by the said rules, or in a place or at a time not permitted by the conditions of his pass,

Arrest of  
registered  
person found  
beyond pre-  
scribed limits.

or who escapes from a reformatory settlement,

may be arrested without warrant by any police-officer or village-watchman and taken before a Magistrate, who, on proof of the facts, shall order him to be removed to the district in which he ought to have resided, or to the

[1] Ss 19 A and 19 B were inserted by the Criminal Tribes Act Amendment Act, 1897 (2 of 1897), s 6, *post*, p 253

[2] Printed, General Acts, 1834-67, Ed. 1898, p. 240

(Part I — Criminal Tribes — Part II — Eunuchs — Secs 21-24)

reformatory settlement from which he has escaped (as the case may be), there to be dealt with according to the rules under this Act for the time being in force

The rules for the time being in force for the transmission of prisoners shall apply to all persons removed under this section

Provided that an order from the Local Government or from the Inspector-General of Prisons shall not be necessary for the removal of such persons

21 It shall be the duty of every village-headman and village-watchman in a village in which any persons belonging to a tribe, class or gang which has been declared criminal reside, and of every owner or occupier of land on which any such persons reside, [1] [or of the agent of any such owner or occupier,] to give the earliest information in his power at the nearest police-station of—

(1) the failure of any such person to appear and give information as directed in section 8,

(2) the departure of any such person from such village or from such land (as the case may be)

And it shall be the duty of every village-headman and village-watchman in a village, and of every owner or occupier of land, [1] [or of the agent of such owner or occupier,] to give the earliest information in his power at the nearest police-station of the arrival at such village or on such land (as the case may be) of any persons who may reasonably be suspected of belonging to any such tribe, class or gang

22. Any village-headman, village-watchman, owner or occupier of land, [1] [or the agent of such owner or occupier] who shall fail to comply with the requirements of section 21, shall be deemed to have committed an offence under the first part of section 176 of the Indian Penal Code [2]

23. [Indemnity for past registrations and detentions] Rep by the Repealing Act, 1876 (12 of 1876)

45 of 1860

## PART II.

### EUNUCHS.

24. The Local Government shall cause the following registers to be made and kept up by such officer as, from time to time, it appoints in this behalf —

(a) a register of the names and residences of all eunuchs residing in any town or place to which the Local Government specially extends

[1] [These words in square brackets in ss 21 and 22 were inserted by the Criminal Tribes (Amendment) Act, 1876 (7 of 1876) s. 2, *post*, p. 252.

[2] Printed, General Acts, 1834-67, Ed. 1893, p. 240

Duties  
of village  
headmen,  
village  
watchmen,  
etc

Penalty for  
breach of  
such duties

Register of  
eunuchs and  
their proper-  
ty

of 1871 ]

## THE CRIMINAL TRIBES ACT, 1871

(Part II — Eunuchs — Secs 25-28 )

5 of 1860

this Part of this Act, who are reasonably suspected of kidnapping or castrating children, or of committing offences under section 377 of the Indian Penal Code,[1] or of abetting the commission of any of the said offences, and

(b) a register of the property of such of the said eunuchs as, under the provisions hereinafter contained, are required to furnish information as to their property

The term "eunuch" shall, for the purposes of this Act, be deemed to include all persons of the male sex who admit themselves, or on medical inspection clearly appear, to be impotent.

"Eunuch" defined

25 Any person deeming himself aggrieved by any entry made or proposed to be made in such register, either when the register is first made or subsequently, may complain to the said officer, who shall enter such person's name or erase it, or retain it, as he sees fit

Complaints of entries in register

Every order for erasure of such person's name shall state the grounds on which such person's name is erased

The Commissioner shall have power to review any order passed by such officer on such complaint, either on appeal by the complainant or otherwise

26 Any eunuch so registered who appears, dressed or ornamented like a woman, in a public street or place, or in any other place, with the intention of being seen from a public street or place,

Penalty on registered eunuch appearing in female clothes, or dancing in public, or for hire

or who dances or plays music, or takes part in any public exhibition, in a public street or place or for hire in a private house,

may be arrested without warrant, and shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

27. Any eunuch so registered who has in his charge, or keeps in the house in which he resides, or under his control, any boy who has not completed the age of sixteen years, shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

Penalty on registered eunuch keeping boy under sixteen

28. The magistrate may direct that any such boy shall be returned to his parents or guardians, if they can be discovered. If they cannot be discovered, the Magistrate may make such arrangements as he thinks necessary for the maintenance and education of such boy, and may direct that the whole or any part of a fine inflicted under section 27 may be employed in defraying the cost of such arrangements.

Maintenance and education of boys whose parents cannot be found.

## (Part II — Eunuchs — Secs 29-31 — Schedule)

The Local Government may direct out of what local or municipal fund so much of the cost of such arrangements as is not met by the fine imposed shall be defrayed

Disabilities of registered eunuchs

29 No eunuch so registered shall be capable—

- (a) of being or acting as guardian to any minor,
- (b) of making a gift,
- (c) of making a will, or
- (d) of adopting a son.

Power to require information as to registered eunuch's property

30 Any officer authorized by the Local Government in this behalf may, from time to time, require any eunuch so registered to furnish information as to all property, whether moveable or immoveable, of or to which he is possessed or entitled, or which is held in trust for him

Penalty for refusing such information

Any such eunuch intentionally omitting to furnish such information, or furnishing, as true, information on the subject which he knows, or has reason to believe, to be false, shall be deemed to have committed an offence under section 176 or 177 of the Indian Penal Code, [1] as the case may be

45 of 1860

Rules for making and keeping up registers of eunuchs

31. The Local Government may, with the previous sanction of the Governor General in Council, make rules for the making and keeping up and charge of registers made under this Part of the Act

## [2] THE SCHEDULE

(See section 19A)

### CERTAIN OFFENCES PUNISHABLE UNDER CHAPTERS XVI AND XVII OF THE INDIAN PENAL CODE [1]

45 of 1860

#### Chapter XVI

##### SECTION

- 299 Culpable homicide
- 307 Attempt to murder
- 308 Attempt to commit culpable homicide
- 310. Thug.
- 322. Voluntarily causing grievous hurt
- 324 Voluntarily causing hurt by dangerous weapons or means.
- 326. Voluntarily causing grievous hurt by dangerous weapons or means

[1] Printed, General Acts 1834-67, Ed 1898, p 240.

[2] This Schedule was added by the Criminal Tribes Act Amendment Act, 1897 (2 of 1897), s 7, *post*, p 253.

of 1871]

## THE CRIMINAL TRIBES ACT, 1871.

*(Schedule—contd )***SECTION**

- 327 Voluntarily causing hurt to extort property or constrain to an illegal act
- 328 Causing hurt by means of poison, etc., with intent to commit an offence
- 329 Voluntarily causing grievous hurt to extort property or to constrain to an illegal act
- 332 Voluntarily causing hurt to deter public servant from his duty
- 333 Voluntarily causing grievous hurt to deter public servant from his duty

*Chapter XVII*

- 382 Theft after preparation made for causing death, hurt or restraint, in order to the committing of the theft
- 383 Extortion
- 385 Putting person in fear of injury in order to commit extortion
- 386 Extortion by putting a person in fear of death or grievous hurt
- 387 Putting person in fear of death or of grievous hurt in order to commit extortion
- 390 Robbery.
- 391 Dacoity
- 393. Attempt to commit robbery.
- 394 Voluntarily causing hurt in committing robbery
- 397 Robbery or dacoity, with attempt to cause death or grievous hurt.
- 398 Attempt to commit robbery or dacoity when armed with deadly weapon
- 399 Making preparation to commit dacoity
- 402 Assembling for purpose of committing dacoity
- 458. Lurking house-trespass or house-breaking by night after preparation for hurt, assault or wrongful restraint
- 459 Grievous hurt caused whilst committing lurking house-trespass or house-breaking
- 460 All persons jointly concerned in lurking house-trespass or house-breaking by night punishable where death or grievous hurt caused by one of them.

THE CRIMINAL TRIBES (AMENDMENT) ACT, 1876 [1]  
(ACT 7 OF 1876)

[21st March, 1876]

An Act to extend the Criminal Tribes Act, 1871, to the Lower Provinces of Bengal, and to amend the same Act

Preamble

WHEREAS it is expedient to extend Act No 27 of 1871 [2] (*for the registration of Criminal Tribes and Eunuchs*) to the Lower Provinces of Bengal, and to amend the same Act in manner hereinafter appearing, It is hereby enacted as follows —

Extension of  
Act 27  
of 1871 to  
Bengal

1. Section 1 of the said Act shall be read as if, after the words “Lieutenant Governors of”, the following word were inserted (namely), “Bengal”

Amendment  
of section 18  
of the Act

2. Section 18 of the said Act shall be read as if in the second clause, after the words “persons reside”, the following words were inserted (namely), “or the agents of such landowners or occupiers”

Amendment  
of section 21  
of the Act

Section 21 of the said Act shall be read as if in the first clause, after the words “persons reside”, the following words were inserted (namely), “or of the agent of any such owner or occupier”,

and as if in the fourth clause, after the words “occupier of land”, the following words were inserted (namely), “or of the agent of such owner or occupier”

Amendment  
of section 22  
of the Act

And section 22 of the same Act shall be read as if, after the words “occupier of land”, the following words were inserted (namely), “or the agent of such owner or occupier”

[1] SHORT TITLE — This short title was given by the Repealing and Amending Act, 1903 (1 of 1903) printed *ante*, p 18

LEGISLATIVE PAPERS — For Statement of Objects and Reasons, see Gazette of India, 1876, Pt V, p 226, and for Proceedings in Council, see *ibid* Supplement, 1876, pp 191, 222, 289, 322 and 342

LOCAL EXTENT — The local extent of this Act is the same as that of Act 27 of 1871, as to which see foot-note [1] on p 241, *ante*

[2] Printed *ante*, p 241.



THE CRIMINAL TRIBES ACT AMENDMENT ACT,  
1897

(ACT 2 OF 1897) [1]

[28th January, 1897]

An Act to amend the Criminal Tribes Act, 1871.

27 of 1871 WHEREAS it is expedient to amend the Criminal Tribes Act, 1871[2], It is hereby enacted as follows

1 (1) This Act may be called the Criminal Tribes Act Amendment Act, Title 1897.

[Commencement] Rep by the Repealing and Amending Act, 1903 (1 of 1903)

27 of 1871 2. To section 1 of the Criminal Tribes Act, 1871, the following proviso shall be added, namely —

[Printed ante, p 242]

Addition of proviso to section 1, Act 27, 1871

27 of 1871 3. After section 1 of the Criminal Tribes Act, 1871, the following section shall be inserted, namely —

1 A [Printed ante, p 242]

Addition of new section after section 1, Act 27, 1871

4 After section 17 of the said Act the following section shall be added, namely —

17 A [Printed ante, p 245]

Addition of new section after section 17, Act 27, 1871

5. For section 19 of the said Act the following section shall be substituted, namely —

19 [Printed ante, p. 246]

Substitution of new section for section 19, Act 27, 1871

6 After section 19 of the said Act the following sections shall be added, namely —

19 A, 19 B. [Printed ante, p. 247]

Addition of two new sections after section 19, Act 27, 1871

7. To the said Act the schedule in the schedule to this Act shall be added.

Addition of schedule to Act 27 of 1871

THE SCHEDULE

(See section 7)

[Printed ante, p. 250.]

[1] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Gazette of India, 1896, Pt V, p 2, for Report of Select Committee, see *ibid* 1897, Pt. V, p 1, and for Proceedings in Council, see *ibid*, Pt VI, 1896, pp 7 and 250; Pt VI, 1897, pp. 2 and 12

LOCAL EXTENT.—The local extent of this Act is the same as that of Act 27 of 1871, as to which see foot-note [1] on page 241, ante.

[2] Printed ante, p 241

# DE-REGULATIONISED TRACTS <sup>[1]</sup>

## ANGUL DISTRICT

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## THE ANGUL DISTRICT REGULATION, 1894

(REGULATION 1 OF 1894)

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[1] For an explanatory note as to the de regulationised tracts in Bengal, see Part VI A of Vol V of this Code.

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of 1894 ]

REGULATION, 1894

*(Chapter I — Preliminary — Secs 1-3)*

## THE ANGUL DISTRICT REGULATION, 1894

(REGULATION 1 OF 1894) [1]

[17th January, 1894]

A Regulation for the peace and government of Angul and the  
Khondmals

WHEREAS it is expedient to provide for the peace and government of the tracts of country in Orissa known as Angul and the Khondmals, It is hereby enacted as follows —

## CHAPTER I

## PRELIMINARY

1. (1) This Regulation may be called the Angul District Regulation 1894, and Title and  
commence-  
ment

(2) It shall come into force on such day[2] as the Lieutenant-Governor of Bengal may, by notification in the Calcutta Gazette, direct

2. For the purposes of this Regulation the district of Angul shall be deemed to comprise Angul, together with that portion of Killa Bod which is known as the Khondmals Constitution  
of district of  
Angul

The former may be called the Sadar, or Angul, Sub-division, the latter the Khondmals Sub-division of the said district of Angul

3 (1) So much of each of the enactments specified in the Schedule as is at the commencement of this Regulation in force in the territories to which the enactment generally applies shall, in the form in which (as at present amended or hereafter to be amended by subsequent enactments, if any) it is so in force, be deemed to be in force in the District of Angul, or such part thereof as is mentioned in the third column of the said Schedule, subject to any modifications contained in this Regulation Laws to be  
in force in  
the district  
of Angul

(2) An enactment not comprised in the Schedule shall not be deemed to be \* \* [3] in force in any part of the district of Angul, unless it \* \* \* [4] shall, after the commencement of this Regulation, be \* [5] extended thereto

[1] LOCAL EXTENT — This Regulation extends only to the Angul District, comprising Angul and the Khondmals — see preamble and section 2.

[2] i.e., the 1st February, 1894 — see Calcutta Gazette, 1894, Pt I, p 91.

[3] The words "or to have been," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[4] The words "shall have been expressly extended thereto, or," which were repealed by the same Act, are omitted

[5] The word "so," which was repealed by the same Act, is omitted

*(Chapter I—Preliminary—Secs 4 8 )*

in exercise of the powers conferred by section 5 of this Regulation or by any other enactment<sup>[1]</sup> for the time being in force in the district of Angul <sup>[2]</sup>

[3]\* \* \* \* \*

Power to  
exempt  
Angul from  
operation of  
enactments

4. The Local Government may, with the previous sanction of the Governor General in Council, by a notification in the Calcutta Gazette, declare that any enactment or part thereof comprised in the Schedule shall no longer be in force in the district of Angul, and on the publication of such notification such enactment or part thereof shall, subject to the proviso to section 3, cease to have effect in the said district

Power of  
Local Gov  
ernment to  
extend any  
other enact  
ment

5 In addition to the enactments comprised in the Schedule, the Local Government may, with the previous sanction of the Governor General in Council, by a notification in the Calcutta Gazette, declare that any other enactment<sup>[2]</sup> or any part thereof shall be in force in the district of Angul, and on the publication of such notification such enactment shall be deemed to be comprised in the Schedule

Power to  
construe  
enactments  
with neces  
sary alter  
ations

6. For the purpose of facilitating the application of any enactment for the time being in force in the District of Angul, any Court may construe such enactment with such alterations not affecting the substance thereof as may be necessary or proper to adapt it to the matter before the Court

Proceedings  
under Regu  
lation not  
vitiated for  
irregularities

7. Notwithstanding anything in this Regulation or in the enactments comprised in the schedule, no finding, sentence, judgment, decree or order of any Court shall be revised, set aside or altered, either in appeal or on revision or otherwise, by reason of any irregularity in procedure, unless such irregularity has, in the opinion of a higher Court, caused a failure of justice

Indemnifica  
tion of pre  
vious acts of  
the executive  
authorities

8. All acts of executive authority, proceedings, decrees and sentences which have been done, taken or passed in or with respect to the district of Angul before the commencement of this Regulation by any officer of the Government, or by any person acting under his authority, or otherwise in pursuance of an order of the Government, and which have been, or shall

<sup>[1]</sup> See e.g., the Scheduled Districts Act, 1874 (14 of 1874), ss 3 and 5 (printed in the General Acts, 1868 76, Ed 1898, p 467). Notifications under these sections are not, however, now issued for Angul, the practice being to proceed under section 5 of the present Regulation

<sup>[2]</sup> For tables of enactments now in force in the Angul District, see Vol V, Part VI B (a)

<sup>[3]</sup> The proviso to sub section (2) of s 3, which was repealed by the Repealing and Amending Act, 1908 (1 of 1908), is omitted The proviso ran as follows —

“Provided that, for the purpose of anything done, or any offence committed, or any fine or penalty imposed or incurred, or any proceeding commenced, before the passing of this Regulation, under any other Regulation or Act which, under the provisions of this section, is declared not to be in force in Angul, such Regulation or Act shall be considered to have been in force in Angul”

of 1894 ]

REGULATION, 1894

*(Chapter I—Preliminary—Secs 9,10)*

hereafter be, ratified by the Lieutenant-Governor of Bengal, shall be as valid and operative as if they had been duly done, taken or passed in accordance with law, and no suit or other proceeding shall be commenced, maintained or continued against any person whatsoever on the ground that any such acts, proceedings, decrees or sentences were not duly done, taken or passed in accordance with law

9. Any person liable to be imprisoned in any civil or criminal jail in the district of Angul, or to be transported beyond the sea under any order or sentence passed by any officer or Court duly empowered under this Regulation, may be imprisoned in any other civil or criminal jail in British India, or may be transported to any other place which the Local Government may, from time to time, select

Sentences passed in Angul may be carried out in any jail and beyond the sea

10. In this Regulation, and in every enactment in force in the district of Angul, unless there be something repugnant in the subject or in the context,—

Definitions.

- (a) "High Court" shall mean, with reference to criminal proceedings against European British subjects, or persons jointly charged with such subjects, the High Court of Judicature at Fort William in Bengal, and in any other case it shall mean the Court of the Superintendent
- (b) "Superintendent" shall mean the Superintendent for the time being of the Orissa Tributary Mahals.
- (c) "district" shall mean the district of Angul as defined in section 2 of this Regulation
- (d) "Deputy Commissioner" shall mean the officer in chief executive charge of the district of Angul, by whatever other title he may be designated
- (e) "District Court" and "District Judge" shall mean the Court of the Deputy Commissioner and the Deputy Commissioner, respectively
- (f) "Magistrate" shall mean any officer exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure, 1882, [1] by whatever other title he may be designated
- (g) "District Superintendent" shall mean the chief officer in charge of the Angul District Police, by whatever other title he may be designated :

10 of 1882

[1] Act 10 of 1882 has been repealed and re-enacted by the Code of Criminal Procedure, 1898 (Act 5 of 1898), and this reference should now be construed as referring to that Code—see Notification No 1705, dated the 18th July, 1898, in Vol V, Part VI C (a).

(Chapter II.—*Constitution and Jurisdiction of Courts*—Secs 11-14)

- (h) "Tahsildar" shall mean the officer in charge of a Sub-division of the district of Angul as defined in section 2
- (i) "collection-agent" shall mean any village-sarbaráhkár, any Tahsildar or any other person duly authorized to collect any demand due to the Government and accruing within the district of Angul and
- (j) "accountant" shall mean any person charged with the duty of keeping the accounts of any such demand as is mentioned in clause (i)

## CHAPTER II

### CONSTITUTION AND JURISDICTION OF COURTS

Courts

11 There shall ordinarily be the following Courts in the district of Angul, and they shall be subject to the general superintendence and control of the Local Government —

- (1) the Courts of the Tahsildars of Angul and of the Khondmals,
- (2) the Court of the Deputy Commissioner,
- (3) the Court of the Superintendent

Creation of  
other Courts.

12. The Local Government may, with the previous sanction of the Governor General in Council, establish any other Court (in addition to those specified in section 11), and may invest it with such powers to be exercised in the district of Angul as it may, from time to time, prescribe [1]

Superintendent's  
and  
Deputy  
Commissioner's  
power of  
control.

13. The immediate control and supervision of the Court of the Deputy Commissioner and of any other Court of equal or similar powers that may hereafter be established under section 12 shall be vested in, and every such Court shall (both in its judicial and executive functions) be subordinate to, the Court of the Superintendent

The immediate control and supervision of the Courts of the Tahsildars, and of any other similar Court that may hereafter be established under section 12, shall be vested in, and all such Courts shall (both in their judicial and executive functions) be subordinate to, the Court of the Deputy Commissioner.

Local limits  
of Courts and  
their variation.

14. The Local Government may, by notification in the Calcutta Gazette, define, and may from time to time vary, the local limits of the jurisdiction and the powers of any Court constituted under this Regulation, or of any officer of the Government employed in the district of Angul [1]

[1] For orders issued under sections 12 and 14, as to the administration of Excise, see the Bengal Local Statutory Rules and Orders, 1908, Vol. II, pp. 91, 92



of 1894 ]

REGULATION, 1894

(Chapter II—*Constitution and Jurisdiction of Courts*—Chapter III—*Administration of Criminal Justice*—Secs 15, 16 )

15 The Courts mentioned in section 11 shall ordinarily have the powers specified below — Powers of Courts

Name of Court	Revenue powers	Criminal powers	Civil powers
10 of 1882 14 of 1882 1 Tahsildars of the Angul Sub division or of the Khondmals Sub division	Powers corresponding to those of a Deputy Collector under any law for the time being in force in the district of Angul.	The ordinary powers of a Sub divisional Magistrate of the second class as defined in the Code of Criminal Procedure, 1882[1] Powers under the Whipping Act	Powers corresponding to those of a Civil Court, as defined in the Code of Civil Procedure, [2] to try original civil suits of which the value does not exceed five hundred rupees Powers of a Court of Small Causes under Act 9 of 1887 [3], the limit of powers in each case to be decided by the Local Government
10 of 1882 14 of 1882 2 Deputy Commissioner	Powers corresponding to those of a Collector under any law for the time being in force in the district of Angul	The ordinary powers of a District Magistrate and of a Sessions Judge as defined in the Code of Criminal Procedure, 1882[1]	Powers corresponding to those of a District Judge as defined in the Code of Civil Procedure [2] to try original civil suits and appeals without limit as respects the value
10 of 1882 14 of 1882 3. Superintendent	Powers corresponding to those of a Commissioner and of the Board of Revenue under any law for the time being in force in the district of Angul	The ordinary powers of a High Court as defined in the Code of Criminal Procedure, 1882, [1] except in regard to criminal proceedings against European British subjects or persons jointly charged with European British subjects	Powers corresponding to those of a High Court as defined in the Code of Civil Procedure[2]

## CHAPTER III.

## ADMINISTRATION OF CRIMINAL JUSTICE.

16 The District of Angul shall be a sessions division, the Court of the Court of Sessions.

[1] Act 10 of 1882 has been repealed and re-enacted by the Code of Criminal Procedure, 1898 (Act 5 of 1898) and these references should now be construed as referring to that Code—see Notification No 1705, dated the 18th July, 1898, in Vol. V, Pt. VIC (a). Act 5 of 1898 is printed in the General Acts, 1891-98, Ed., 1899, p. 380.

[2] Printed in the General Acts, 1882-84, Ed. 1898, p. 262

[3] Printed in the General Acts, 1885-90, Ed., 1898, p. 128

*(Chapter III.—Administration of Criminal Justice — Secs 17 22)*

Deputy Commissioner shall be the Court of Session, and the Deputy Commissioner shall be the Judge of that Court

Power of  
Court of Ses-  
sion to take  
cognizance  
of offences as  
a Court of  
original  
jurisdiction

17. As Sessions Judge the Deputy Commissioner may take cognizance of any offence as if he were a Court of original jurisdiction without the accused person being committed to him by a Magistrate, and, when so taking cognizance of an offence, shall, subject to the provisions of this Regulation, follow the procedure prescribed by the Code of Criminal Procedure, 1882<sup>[1]</sup> for the trial of warrant cases by Magistrates

Sessions  
trials without  
jury or  
assessors  
Officer in  
charge of a  
police  
station

18 A trial before a Court of Session may be without a jury or the aid of assessors

19 (1) The police officer of highest rank present at a police station shall be deemed to be the officer in charge of such police-station

(2) Any police-officer may exercise the powers conferred by section 50 of the Code of Criminal Procedure, 1882,<sup>[1]</sup> on an officer in charge of a police-station

Detention  
by police

20. Notwithstanding anything contained in section 57 or section 61 of the Code of Criminal Procedure, 1882,<sup>[1]</sup> an officer in charge of a police-station may detain a person arrested without warrant for such time as in all the circumstances of the case is reasonable

But when such officer of his own authority detains any such person in custody for a longer period than twenty-four hours, exclusive of the time necessary for the journey from the place of arrest to the nearest Magistrate's Court, he shall in the report prescribed in section 62 of the Code of Criminal Procedure, 1882,<sup>[1]</sup> state his reasons for prolonging the detention of such person, and, where the detention extends beyond three days, shall submit further reports of the reasons therefor at such intervals as the Magistrate to whom the report under section 62 was submitted may by general or special order direct.

Statement  
made to  
police-officers.

21. Nothing in the first paragraph of section 162 of the Code of Criminal Procedure, 1882,<sup>[1]</sup> shall be construed to apply to a statement made to a police-officer who is also a Magistrate

Prosecution  
for State  
offences and  
false evidence

22 A prosecution for an offence against the State, or for the offence of giving false evidence in respect of a statement made by a person who has

<sup>[1]</sup> Act 10 of 1882 has been repealed and re-enacted by the Code of Criminal Procedure, 1898 (Act 5 of 1898), and these references should now be construed as referring to the corresponding provisions of that Code—see Notification No 1703, dated the 18th July, 1898, in Vol V, Pt. VI C (a).

of 1894 ]

REGULATION, 1894

*(Chapter III — Administration of Criminal Justice — Secs. 23-23)*

accepted a tender of pardon, may be entertained upon complaint made by order of, or under authority from, the Deputy Commissioner

by person to whom pardon has been tendered

10 of 1882

23 Any Magistrate tendering a pardon to an accomplice under section 337 of the Code of Criminal Procedure, 1882 [1] may, notwithstanding anything contained in that section, try the case himself

Tender of pardon

24 The period of limitation for an appeal from any appealable sentence or order in any criminal case shall be thirty days from the date of such sentence or order, but shall be exclusive of that date

Limitation of appeal

10 of 1882

25 Notwithstanding anything contained in the Code of Criminal Procedure, 1882, [1] no appeal shall lie—

Restrictions on appeal

(a) in any case in which a Tahsildar exercising the powers of a Magistrate of the second class passes a sentence of imprisonment not exceeding one month, or of fine not exceeding fifty rupees, or of whipping only,

(b) in any case in which the Deputy Commissioner exercising the powers of a District Magistrate, or of a Court of Session, passes a sentence of imprisonment for a term not exceeding three months, or of fine not exceeding one hundred rupees, or of whipping only

10 of 1882

26 Where an offence referred to in section 195 of the Code of Criminal Procedure, 1882, [1] is committed before the presiding officer of a Criminal Court, or in contempt of his authority, or is brought to his notice in the course of a judicial proceeding, he may himself try for such offence the person accused thereof

Contempt and offences against public justice or relating to documents

10 of 1882.

27 Notwithstanding anything contained in section 495 of the Code of Criminal Procedure, 1882, [1] any Court may allow any police-officer to conduct a prosecution

Conduct of prosecutions

10 of 1882

28. Any Court may, for reasons to be stated in writing refuse to exercise, in the manner mentioned in section 526A of the Code of Criminal Procedure, 1882, [1] the power of postponement or adjournment given by section 344 of that Code

Adjournment, on application, for transfer of case

10 of 1882

29. In the case of any proceeding the record of which has been called for and examined by himself, or which has been reported for orders under section 435 of the Code of Criminal Procedure, 1882, [1] or which otherwise comes to his knowledge, the Deputy Commissioner or the Superintendent may in his

Superintendent's and Deputy Commissioner's power of revision

[1] Act 10 of 1882 has been repealed and re-enacted by the Code of Criminal Procedure, 1898 (Act 5 of 1898), and these references should now be construed as referring to the corresponding provisions of that Code—see Notification No. 1703, dated the 18th July, 1898, in Vol V, Pt VIC (a).

(Chapter III—Administration of Criminal Justice—Sec 30 Chapter IV—  
Administration of Civil Justice—Secs 31-32)

discretion exercise any of the powers conferred on a Court of appeal by sections 195, 423, 426, 427 and 428 of that Code, and may, for sufficient reasons to be recorded, enhance the sentence

Provided that—

(1) no order under this section shall be made to the prejudice of the accused unless he has had an opportunity of being heard in his defence,

(2) nothing in this section shall apply to an entry made under section 273 of that Code, or shall be deemed to authorize the conversion of a finding of acquittal into one of conviction.

Saving of  
provisions re-  
lating to  
European  
British  
subjects

30 Nothing in this Chapter with respect to procedure in inquiries or trials, or with respect to sentences or appeals therefrom, or to the enhancement or execution thereof, shall be construed to affect the Code of Criminal Procedure, 1882, [1] in its application to European British subjects or to persons jointly 10 of 1882 charged with such subjects

## CHAPTER IV

### ADMINISTRATION OF CIVIL JUSTICE

Law to be  
administered.

31. (1) When in any civil proceeding it is necessary to decide any question regarding succession, inheritance, pre-emption, caste, special property of females, betrothals, marriage, adoption, guardianship, minority, bastardy, family relationship, wills, legacies, gifts, partitions or any other religious or social usage or institution, the Buddhist law in cases where the parties are Buddhists, the Muhammadan law in cases where the parties are Muhammadans, and the Hindu law in cases where the parties are Hindus, shall form the rule of decision, except in so far as such law has by any enactment been altered or abolished, or is opposed to any custom having the force of law in the district of Angul.

(2) In cases not provided for by sub-section (1) of this section, or by any other law for the time being in force, the Court shall act according to justice, equity and good conscience

Interest

32. (1) In any suit instituted on or after the date on which this Regulation may come into force—

(a) the amount of interest which may be decreed on any loan or debt shall not exceed the original amount of such loan or debt,

[1] Act 10 of 1882 has been repealed and re enacted by the Code of Criminal Procedure, 1898 (Act 5 of 1898), and this reference should now be construed as referring to the corresponding provisions of that Code—see Notification No 1703, dated the 18th July, 1898, in Vol. V, Pt VIC (a).

of 1894 ]

REGULATION, 1894

*(Chapter IV.—Administration of Civil Justice —Secs 33-35)*

- (b) interest on any debt or liability for a period exceeding one year shall not be decreed at a higher rate than two *per cent per mensem*, notwithstanding any agreement to the contrary, and no compound interest arising from any intermediate adjustment of account shall be decreed

14 of 1882

(2) For the purposes of sub-section (1), section 43 of the Code of Civil Procedure [1] shall be deemed to be in force throughout the territories to which this Regulation extends, notwithstanding any special contract or agreement to the contrary

33 The Government shall be presumed, until the contrary be proved or determined, to be entitled to the exclusive use and control of the water (a) of all rivers and streams flowing in natural channels, (b) of all natural collections of water, and (c) of all tanks and irrigation-*bunds* constructed wholly or in part by or at the expense of the Government within the district of Angul Control of rivers, etc

34. (1) An original decree or order made by the Court of a Tahsildar in any civil or revenue suit, the value of which does not exceed fifty rupees, shall, subject to the provisions of this Regulation with respect to revision, be final Appeal

(2) From every other decree or order made by the Court of a Tahsildar an appeal shall lie to the Court of the Deputy Commissioner.

(3) An original decree or order made by the Court of a Deputy Commissioner in any civil or revenue suit, the value of which does not exceed five hundred rupees, shall, subject to the provisions of this Regulation with respect to revision, be final

(4) From every other original decree or order made by the Court of a Deputy Commissioner in any civil or revenue suit an appeal shall lie to the Court of the Superintendent

(5) Save as provided by sub-section (6) and subject to the provisions of this Regulation with respect to revision, every appellate decree or order of the Court of the Deputy Commissioner in any civil or revenue suit shall be final

(6) An appeal from an appellate decree or order of the Court of the Deputy Commissioner in a civil or revenue suit, the value of which exceeds one thousand rupees, and in which the Deputy Commissioner has revised or modified the orders of the Lower Court, shall lie to the Court of the Superintendent

35. The Superintendent or the Deputy Commissioner may, of his own motion or otherwise, call for the record of any civil or revenue case decided by any Court under his control and supervision, and may pass such order therein as he may think fit. Revision

(Chapter V—Recovery of Public Demands—Secs 36-41 Chapter VI—  
Village-chaukidars—Secs 42-44

## CHAPTER V

## RECOVERY OF PUBLIC DEMANDS

Notice of  
arrear of  
public  
demand

Issue of  
notice

Mode of  
realization

Rayat's  
holding may  
not be sold  
if certificate  
can be  
otherwise  
satisfied  
Deputy Com-  
missioner's  
and Superin-  
tendent's  
power of  
revision.  
Register of  
proceedings

36. Whenever any sum due to Government is unpaid on the date next after that on which payment is due, the accountant shall certify in writing to the Tahsildar the fact of the arrear and the amount due.

37. On receipt of any such certificate the Tahsildar may, after making any inquiry which he may consider necessary, if he be satisfied that the demand specified in the notice is justly due, issue a notice to the defaulter ordering him, within a given time, (a) to pay up the amount due, or (b) to appeal before him and state any objection he may have to pay such amount.

38. If the amount due be not paid or contested as provided in the last foregoing section, the Tahsildar may recover the same by the attachment and sale of any moveable or immovable property belonging to the defaulter, together with all costs of realizing the same.

39. The Tahsildar shall exempt from sale the holding of any rayat unless and until he has satisfied himself that the said rayat has no other property by the sale of which the sum due from him can be realized.

40. All the proceedings of a Tahsildar under this Chapter shall be subject to revision by the Deputy Commissioner and by the Superintendent, who may alter or modify the orders of the said Tahsildar in any way he thinks fit, but there shall be no appeal as a matter of right to either of the above officers.

41. Every Tahsildar shall keep in his office, in such form as may from time to time be prescribed by the Superintendent, a register of his proceedings under this Chapter, and every payment made by any defaulter shall be duly entered in such register.

## CHAPTER VI

## VILLAGE CHAUKIDARS

Power to  
appoint and  
dismiss  
village-  
chaukidars.

Constitution  
of village.

Status of  
chaukidars  
appointed  
prior to  
Regulation.

42. Subject to the approval of the Deputy Commissioner, the District Superintendent of Police may appoint any person to be a village-chaukidar, and may for any misconduct or neglect of duty dismiss any village chaukidar.

43. The Deputy Commissioner may, from time to time, by an order in writing under his hand, declare any local area or group of dwellings to be a village for the purposes of this Chapter.

44. Every village-chaukidar acting as such at the time of the passing of this Regulation shall be deemed to have been appointed under section 42.

of 1894 ]

REGULATION, 1894

(Chapter VI—Village-chaukidars—Secs 45 47)

45. Every village-chaukidar who shall (a) withdraw from the duties of his office without the express permission of the District Superintendent of Police, or of some other officer duly authorized by him to grant such permission, (b) resign his office without the permission of the District Superintendent of Police, unless he has given at least two months' notice of his intention to resign, or (c) be guilty of cowardice, shall be liable, on conviction before a Magistrate, to a fine not exceeding ten rupees

Penalty for village chaukidar withdrawing from his duties, etc

Provided that no prosecution shall be instituted against any village-chaukidar under this section without the previous sanction of the Deputy Commissioner

46 Any village chaukidar who is guilty of any wilful misconduct in his office or neglect of his duty, such misconduct or neglect not being an offence within the meaning of the Indian Penal Code, [1] or of section 45 of this Regulation, and not being of so grave a character as, in the opinion of the District Superintendent of Police, to require his dismissal from his office, shall be liable under the orders of the District Superintendent to a fine not exceeding three rupees, and such fine may be recovered as if it were a fine leviable under the provisions of the Code of Criminal Procedure, 1882 [2]

Power to fine village chaukidars

47. Every village-chaukidar appointed under this Regulation shall perform the following duties:—

Duties of village chaukidar

*first*, he shall give immediate information to the officer in charge of the police-station within the limits of which the village of which he is a chaukidar is situated of every unnatural, suspicious or sudden death which may occur, and of every murder, culpable homicide, rape, dacoity, robbery, theft, mischief by fire, house breaking, counterfeiting coin, causing grievous hurt, riot, and all attempts and preparations to commit, and abetments of, all the said offences which may be committed within such village, or which may come to his notice otherwise, and he shall further keep the police informed of all disputes which are likely to lead to any riot or serious affray,

*second*, he shall arrest all proclaimed offenders and all persons whom he may find in the act of committing any of the offences above specified;

[1] Printed in the General Acts, 1884-87, Ed. 1898, p. 240

[2] Act 10 of 1882 has been repealed and re-enacted by the Code of Criminal Procedure, 1898 (Act 5 of 1898), and this reference should now be construed as referring to that Code—see Notification No. 1705, dated the 18th July, 1898, in Vol. V, Pt. VI C (a).

45 of 1860

10 of 1882

(Chapter VI—Village-chaukidars.—Secs 48-49 Chapter VII.—Registration of Documents—Secs 50-51)

*third*, he shall observe, and from time to time report to the officer in charge of the police-station within the limits of which such village is situated, the movements of all bad characters in such village, *fourth*, he shall report to the officer in charge of such police-station the arrival of any suspicious characters in the neighbourhood, *fifth*, he shall present himself at such police-station at such intervals as the Deputy Commissioner may direct, *sixth*, he shall supply any local information which the Deputy Commissioner or the District Superintendent of Police may require, and, *seventh*, he shall obey the orders of the Deputy Commissioner and of the District Superintendent of Police with respect to the place where he is to reside and in regard to keeping watch in the village and other matters connected with his duties as village-chaukidar

Procedure on  
arrest by  
village  
chaukidar

48. Whenever a village-chaukidar arrests any person, he shall forthwith take the person so arrested to the police-station within the limits of which the village of which he is a chaukidar is situated

Provided that, if the arrest is made at night, such person shall be so taken as soon as convenient on the following morning

Appeal from  
the District  
Superinten-  
dent's order

49 An appeal shall lie to the Deputy Commissioner from every order of the District Superintendent of Police punishing a village-chaukidar with fine or dismissal, and, subject to the general power of revision of the Superintendent, the order which the Deputy Commissioner may pass on such appeal shall be final.

## CHAPTER VII.

### REGISTRATION OF DOCUMENTS

Power of  
Local Gov-  
ernment to  
appoint Sub-  
Registrars

50. (1) The Local Government may appoint such persons as it thinks proper to be Sub-Registrars for the sub-divisions of the district, or for any part of them, and may at any time suspend or remove any Sub-Registrar so appointed

(2) A Sub-Registrar appointed under this section shall be deemed to be a public servant within the meaning of the Indian Penal Code [1]

45 of 1860.

Deputy Com-  
missioner to  
be *ex-officio*  
Registrar;  
control of  
Sub-Regis-  
trars; dele-

51. (1) The Deputy Commissioner shall be *ex-officio* Registrar of the district; and all Sub-Registrars appointed as aforesaid shall be subject to his general control and superintendence.

(2) The Deputy Commissioner may by an order in writing delegate his

[1] Printed in the General Acts, 1834-67, Ed 1898, p. 240.



of 1894.]

REGULATION, 1894

*(Chapter VII—Registration of Documents.—Secs 52-54)*

powers during his absence from head-quarters to the tahsildar or to any Sub-Registrar under him

gation of  
Registrar's  
powers

52 All documents may be registered at the option of the parties by or in whose favour such documents are executed, but the Local Government may, from time to time, with the previous sanction of the Governor General in Council, by notification in the Calcutta Gazette, declare with respect to documents of any class described in such notification that documents of that class executed on or after a date to be prescribed by the said notification, and purporting or operating to create, declare, assign or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, to or in immoveable property situate in any part of the district specified in the notification, shall be registered in accordance with the provisions of this Regulation, and that no such document shall affect any property comprised or referred to therein, or be received in evidence of any transaction affecting such property, unless it has been registered in accordance with the provisions of this Chapter

Power of  
Local Gov-  
ernment to  
direct com-  
pulsory regis-  
tration in  
certain cases

53 The Local Government may, at any time with the previous sanction of the Governor General in Council, by notification in the Calcutta Gazette, cancel or vary, with effect on and from a date to be prescribed by such notification, any notification made under the last foregoing section.

Power of  
Local Gov-  
ernment to  
cancel or  
vary notifi-  
cation under  
section 52  
Power of  
Local Gov-  
ernment  
to make  
rules

54 (1) The Local Government may, from time to time, make rules to regulate the registration of documents under this Regulation

(2) Rules under this section may, (among other matters)—

(a) define the time, place and mode of presenting documents for registration;

(b) regulate the duties and powers of registering officers and of the Deputy Commissioner as *ex-officio* Registrar, and specify the cases in which those officers may enforce the appearance of executants and witnesses, and

(c) fix the fees payable for registration, searches and copies, and the time when fees shall be payable

(3) Rules under this section shall be published in the Calcutta Gazette, and shall thereupon have the force of law.

(4) The provisions of sections 81 and 82 of the Indian Registration Act, 1877, [1] regarding offences by registering officers and other persons, shall, so far as they can be made applicable, apply to like offences when committed with respect to the registration of documents under this Regulation.

3 of 1877

## CHAPTER VIII

## MISCELLANEOUS

Power of  
Deputy  
Commissioner  
to summon  
land holders,  
etc

55 (1) The Deputy Commissioner in the performance of his official duties is empowered to require, or to authorize any tahsildar to require, any proprietor, farmer, rent-collector or occupier of land (a) to furnish such information, accounts and documents as he may be capable of furnishing, and (b) to supply provisions and labour at market rates for the use of troops and officers of the Government marching in or through the district of Angul on the public service. Any such person failing to comply with such requisition shall be liable to a penalty not exceeding one hundred rupees, and such penalty may be levied in the manner provided by the Code of Criminal Procedure, 1882, [1] for the levy of criminal fines.

10 of 1882

(2) Any person aggrieved by any order of the Deputy Commissioner under this section may appeal to the Superintendent, whose order shall be final.

Auction sales  
and liability  
of auction  
purchasers

56. (1) Whenever any property is sold by public auction by or under the orders of a public servant competent to cause the sale of such property, the auction-purchaser of such property shall be bound to pay the amount for which such property is sold at such time and at such place as may be notified at the time of sale, and shall be bound to conform to all the conditions under which the sale is made.

(2) If the auction-purchaser omits or fails to pay the amount for which the property is sold at such place or time as is notified at the time of sale, or fails to comply with any of the conditions under which the sale is made, it will be competent to the officer by or under whose order the property is sold to direct the re-sale of such property.

(3) Such re-sale shall be made at the risk of the auction-purchaser at the first sale, and the difference between any bid made by him and the proceeds of the second sale rendered necessary in consequence of his default shall be recoverable from him, together with all costs incurred, as a demand due to Government.

*Explanation.*—The expression “public servant” as used in this section has the same meaning as is attached to it in the Indian Penal Code [2].

45 of 1800

57. The Deputy Commissioner may, with the sanction of the Superintendent-

[1] Act 10 of 1882 has been repealed and re-enacted by the Code of Criminal Procedure, 1898 (Act 5 of 1898), and this reference should now be construed as referring to that Code—see Notification No 1705, dated the 18th July, 1898, in Vol V, Pt VI C (a).

[2] Printed in the General Acts, 1834-67, Ed 1898, p 240.

of 18<sup>04</sup> ]

REGULATION, 1894

*(Chapter VIII — Miscellaneous — Secs 58-60)*

ent, make rules to regulate the writing of petitions and the conduct of cases in his Court and in the Courts subordinate to him by persons not duly qualified under the Legal Practitioners Act, 1879 [1]

petition-  
writers

18 of 1879 \*

Provided that nothing in the above clause shall be deemed to apply to any legal practitioner duly qualified under that Act and holding a certificate under section 7 of that Act authorizing him to practise in any other Court

7 of 1870

58. Notwithstanding anything contained in the Court-fees Act, [2] the presiding officer of any Court may, in special cases, by an order in writing and for reasons to be recorded therein, exempt any document from the payment of such fees.

Power of  
Court to grant  
exemption  
from payment  
of court fees

10 of 1873

59 Notwithstanding anything contained in the Indian Oaths Act, 1873, [3] any form of oath or solemn affirmation common amongst, or held binding by, the persons of the race or persuasion to which any witness in, or party to, any judicial proceeding (not being the accused in any criminal proceeding) belongs, and not repugnant to justice and decency, and not purporting to affect any third person, may be administered to such witness or party.

Administra-  
tion of oath  
or solemn  
affirmation

60 The district of Angul shall be held to be a general police-district within the meaning of Act 5 of 1861 [4], as modified by Act No 7 of 1869 [5] passed by the Lieutenant-Governor of Bengal in Council, and the Superintendent shall exercise in it all powers and authorities conferred on an Inspector-General of Police.

Superin-  
tendent to  
exercise  
powers of  
Inspector  
General of  
Police

[1] Printed in the General Acts, 1877-81, Ed. 1898, p. 267

[2] Printed in the General Acts, 1898-76, Ed. 1898, p. 124

[3] Printed in the General Acts, 1863-76, Ed. 1898, p. 411

[4] The Police Act, 1861. It is printed in the General Acts, 1834-67, Ed. 1898, p. 379

[5] The Bengal Police Act, 1869. It is printed in Vol. IV of this Code.

## THE SCHEDULE

*(See section 3.)*ENACTMENTS TO BE DEEMED IN FORCE IN ANGUL AND THE  
KHONDMALS [1]

Number and year	Subject	Place in which declared in force
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## PART I

*Bengal Regulations*

2 of 1793 (section 7 and clause tenth of section 8)	Excise . . .	The whole dis trict
10 of 1804	State offences	Ditto
11 of 1806	Assistance to marching troops and travellers	Ditto
11 of 1812	Removal of foreign immigrants	Ditto
3 of 1818	State prisoners . . .	Ditto
11 of 1822, section 38	Non liability of Government for errors of Court	Ditto
6 of 1825	Passage of troops . . .	Ditto
17 of 1829	Widow-burning . . .	Ditto

## PART II

*Acts of the Governor General of India in Council.*

18 of 1850	Protection of judicial officers .	The whole dis trict
34 of „	State prisoners . . .	Ditto
12 of 1855	Suits for wrongs by and against executor, etc. .	Ditto.
13 of „	Compensation for loss occasioned by death .	Ditto.
15 of 1856	Re-marriage of Hindu widows . . .	Ditto

[1] As to what enactments are now in force in the Angul District, see Vol V, Pt. VI A and B (a).

of 1894 ]

REGULATION, 1894

(The Schedule)

## THE SCHEDULE—continued

Number and year	Subject	Place in which declared in force
<i>Part II—Acts of the Governor General in Council—contd</i>		
11 of 1857	State offences .	The whole district
3 of 1858	State prisoners	Ditto
36 of „	Lunatic Asylums	Ditto
45 of 1860	Penal Code	Ditto.
5 or 1861	Police	Ditto.
16 of 1863	Excise .	Ditto
3 of 1864	Foreigners	Ditto
6 of „	Whipping .	Ditto
*	* * * *	* 1]
4 of 1869	Divorce .	The whole district
5 of „	Indian Articles of War	Ditto
*	* * * *	*[1]
7 of 1870	Court-fees .	Sub-division of Angul only.
*	* * * *	*[1]
23 of 1870	Cornage .	The whole district.
*	* * * *	*[1]
1 of 1871	Cattle-trespass .	The whole district.
[2] 5 of „	Prisoners .	Ditto.
1 of 1872	Evidence . . . . .	Ditto.
3 of „	Marriage . . . . .	Ditto.
10 of 1873	Oaths . . . . .	Ditto
[3] * *		

[1] The references to Acts 14 of 1866 (Post Office), 1 of 1868 (General Clauses), 15 of 1869 (Prisoners Testimony), 10 of 1870 (Land Acquisition) and 26 of 1870 (Prisons), which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted

[2] Only section 15 of Act 5 of 1871 is now in force in Angul, the rest of the Act having been repealed by the Prisoners' Act, 1900 (3 of 1900)

[3] The words and figures "except the first sentence of 16," in column 1 of the entry relating to Act 10 of 1873 (Oaths), which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

## DE-REGULATIONISED TRACTS

## THE ANGUL DISTRICT

*(The Schedule)*

[Reg 1

## THE SCHEDULE—continued

Number and year	Subject	Place in which declared in force
<i>Part II — Acts of the Governor General in Council—contd</i>		
2 of 1874	Administrator General .	The whole district
9 of „	European Vagrancy	Ditto
14 of „	Scheduled Districts . . . . .	Ditto
15 of 1877	Limitation . . . . .	Sub division of Angul only
1 of 1878	Opium	The whole district
6 of „	Treasure Trove	Ditto
7 of „	Forests	Ditto
8 of „ (sections 144 154).	Sea Customs . . . . .	Ditto
*	* * * *	*[1]
18 of 1879	Legal Practitioners	The whole district
21 of „	Extradition	Ditto
*	* * * *	*[1]
14 of 1882	Civil Procedure .	The whole district
20 of „	Paper Currency . . . . .	Ditto
*	* * * *	*[1]
18 of 1885	Mines	The whole district
*	* * * *	*[1]
7 of 1889	Succession Certificates	The whole district
1 of 1890	Revenue Recovery	Ditto
8 of „	Guardians and Wards	Ditto
*	* * * *	*[1]
13 of 1890	Excise (Mal Liquors) .	The whole district

[1] The references to Acts 1 of 1879 (Stamps), 10 of 1882 (Criminal Procedure), 18 of 1883 (Cattle-trespass), 1 of 1887 (General Clauses) and 12 of 1890 (Tariff), which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

of 1894 ]

REGULATION, 1894,

*(The Schedule)*THE SCHEDULE—*concluded*

Number and year	Subject	Place in which declared in force
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## PART III

*Acts of the Lieutenant-Governor of Bengal in Council*

*	*	*	*	*	*[1]
5 of 1875	Survey				The whole dis- trict
7 of 1878	Excise				Ditto

[1] The references to Bengal Acts 2 of 1864 (Jails) and 5 of 1867 (General Clauses), which were repealed by the Repealing and Amending Act 1903 (1 of 1903), are omitted

# THE CHITTAGONG HILL TRACTS FRONTIER POLICE REGULATION, 1881

(REGULATION 3 OF 1881).<sup>[1]</sup>

[7th December, 1881]

## The Chittagong Hill-tracts Frontier Police Regulation, 1881

### Preamble

WHEREAS the Frontier Police of the Hill-tracts of Chittagong enrolled under Act No 5 of 1861 <sup>[2]</sup> (*for the regulation of Police*) perform services of a quasi military character, and whereas the provisions of the said Act, and the orders and rules framed under section 12 thereof, have been found insufficient for the maintenance of discipline among such police, and it is therefore expedient to make further provision for the maintenance of discipline among them, It is hereby enacted as follows —

### Short title

1 This Regulation may be called the Chittagong Hill-tracts Frontier Police Regulation, 1881.

### Local extent.

It applies to all persons now or hereafter appointed under the said Act No. 5 of 1861 <sup>[2]</sup> to be Frontier Police-officers and posted to the Hill-tracts of Chittagong

[Commencement] *Rep by the Repealing and Amending Act, 1903 (1 of 1903)*

### Interpretation clause

2 In this Regulation, unless there is something repugnant in the subject or context,—

“active service”,

“active service” means service at the frontier outposts, or against hostile tribes or other persons in the field,

“Superintendent” and “District Superintendent”,

[3] [“Superintendent”] and “District Superintendent” mean the [3][Superintendent] of the Hill-tracts of Chittagong and the District Superintendent of Police within the same tracts, respectively, and

“reason to believe”, “criminal force”, “assault” and “fraudulently”

the expressions “reason to believe”, “criminal force”, “assault” and “fraudulently” have the meanings assigned to them respectively in the Indian Penal Code <sup>[4]</sup>

45 of 1860

[1] LOCAL EXTENT.—This Regulation extends only to the Chittagong Hill tracts—*see s 1* It is formally included in the Schedule of laws in force in those tracts—*see post*, p 288 For power to define the boundaries of the tracts, *see* the Chittagong Hill-tracts Regulation, 1900 (1 of 1900) s 2(2) *post*, p 282

RULES.—For rules for the trial of offences under this Regulation, *see* the Bengal Local Statutory Rules and Orders, 1903, Vol II, p 100

[2] The Police Act, 1861 It is printed in the General Acts, 1834-67, E1 1898, p 379.

[3] The word “Superintendent” was substituted for the words “Deputy Commissioner” by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), Schedule, Pt 4, *post*, p 288

[4] Printed in the General Acts, 1834-67, Ed. 1898, p. 240



of 1881.]

(Sec 3)

3 Any person subject to this Regulation, not being above the rank of subadái, who— More heinous offences

- (a) begins, excites, causes or joins in any mutiny or sedition, or, being present at any mutiny or sedition, does not use his utmost endeavours to suppress the same, or, knowing or having reason to believe in the existence of any mutiny, or of any intention to mutiny, does not without delay give information thereof to his commanding or other superior officer, or
- (b) uses or attempts to use, criminal force to, or commits an assault on, his superior officer, whether on or off duty, under any circumstances in which the superior officer is distinguishable as such in any manner, or
- (c) shamefully abandons or delivers up any garrison, fortress, post or guard committed to his charge, or which it is his duty to defend, or
- (d) directly or indirectly holds correspondence with, or assists or relieves, any persons in arms against the State, or omits to discover immediately to his commanding or other superior officer any such correspondence coming to his knowledge, and

any such person who, while on active service,—

- (e) disobeys the lawful command of his superior officer, or
- (f) deserts the service, or,
- (g) being a sentry, sleeps upon his post, or quits it without being regularly relieved or without leave, or
- (h) without authority, leaves his commanding officer, or his post or party, to go in search of plunder, or
- (i) quits his guard, picquet party or patrol without being regularly relieved or without leave, or
- (j) uses criminal force to, or commits an assault on, any person bringing provisions or other necessaries to camp or quarters, or forces a safe-guard, or without authority breaks into any house or any other place, for plunder, or plunders, destroys or damages any field, garden or other property of any kind, or
- (k) intentionally causes or spreads a false alarm in action, camp, garrison or quarters,

shall be punished with transportation for life or for a term of not less than seven years, or with imprisonment, with or without hard labour, for a term which may extend to fourteen years.

Less heinous  
offences

4. Any person subject to this Regulation, not being above the rank of subadái, who—

- (a) is in a state of intoxication when on or for any duty, or on parade or on the line of march, or
- (b) strikes or attempts to force any sentry, or
- (c) being in command of a guard, picquet or patrol, refuses to receive any prisoner duly committed to his charge, or without proper authority releases any prisoner or negligently suffers any prisoner to escape, or
- (d) being under arrest or in confinement, leaves his arrest or confinement before he is set at liberty by proper authority, or
- (e) is grossly insubordinate or insolent to his superior officer in the execution of his office, or
- (f) refuses to superintend or assist in the making of any field-work or other military work of any description ordered to be made either in quarters or in the field, or
- (g) strikes or otherwise ill-uses any person subject to this Regulation being his subordinate in rank or position, or
- (h) being in command at any post or on the march, and receiving a complaint that any one under his command has beaten or otherwise maltreated or oppressed any person, or has committed any riot or trespass, fails to have due reparation made to the injured person, or to report the case to the proper authority, or
- (i) designedly or through neglect injures or loses, or fraudulently disposes of, his arms, clothes, tools, equipments, ammunition, accoutrements or regimental necessaries, or any such articles entrusted to him or belonging to any other person, or
- (j) malingers, feigns or produces disease or infirmity in himself, or intentionally delays his cure, or aggravates his disease or infirmity, or
- (k) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or any other person, and any such person who, while not on active service,—
- (l) disobeys the lawful orders of his superior officer, or
- (m) plunders, destroys or damages any field, garden or other property, or
- (n) being a sentry, sleeps upon his post, or quits it without being regularly relieved, or without leave,

shall be punished with imprisonment, with or without hard labour, which may extend to one year.

of 1881 ]

FRONTIER POLICE REGULATION, 1881

(Secs 5-8)

5. Any person subject to this Regulation, not being above the rank of havildar, who, while on active service, commits any of the offences specified in section 3, or in section 4, clauses (a) to (k), both inclusive, may, in lieu of or in addition to any punishment to which he is liable under those sections be punished with whipping Corporal punishment

In no case, if the cat-of-nine-tails be the instrument employed, shall the punishment of whipping exceed fifty lashes, or, if the ratan be employed, shall the punishment exceed thirty stripes

6 In addition to the powers conferred upon them by the rules made under section 12 of the said Act No 5 of 1861, [1] the [2] [Superintendent], the District Superintendent, or an Assistant District Superintendent of Police in command of a detachment, may, without a formal trial, award to any person subject to his authority and to whom this Act applies the following punishments for the commission of petty offences against discipline which are not otherwise provided for or which are not of a sufficiently serious nature to call for a prosecution before a Criminal Court (that is to say) — Minor punishment

- (a) imprisonment to the extent of seven days in the quarter-guard, or such other place in or near the lines as may be considered suitable, with forfeitures of all pay and allowances during its continuance,
- (b) punishment drill, extra guard, fatigue or other duty, not exceeding thirty days in duration, with or without confinement to lines.

Any of these punishments may be awarded separately or in combination with the others

7 Any person sentenced under this Regulation to imprisonment for a period not exceeding three months shall, when also dismissed the service, be imprisoned in the nearest jail, but, when not also dismissed the service, he may, at the discretion of the convicting officer, subject to revision by the [2] [Superintendent], be confined in the quarter-guard or such other place as such officer may consider suitable. Where person sentenced to imprisonment to be confined

8 Nothing in this Regulation shall prevent any person from being prosecuted under the said Act No. 5 of 1861 [1] or any order or rule framed thereunder, or under any other enactment for the time being in force, for any act or omission punishable hereunder, or from being liable under any other enactment to any other or higher penalty than is provided for such act or omission by this Regulation : Prosecutions, etc., under other enactments

[1] The Police Act, 1861. It is printed in the General Acts, 1884-87, Ed 1898, p 379

[2] The word "Superintendent" was substituted for the words "Deputy Commissioner" by the Chittagong Hill tracts Regulation, 1900 (1 of 1900), Schedule, Pt 4, post p. 288.

THE CHITTAGONG HILL TRACTS FRONTIER POLICE [Reg 3 of 1881]  
REGULATION, 1881

(Sec. 9.)

THE CHITTAGONG HILL TRACTS REGULATION, 1900 [Reg 1 of 1900.]

Provided that no person shall be punished twice for the same offence

Magisterial  
powers of  
police  
officers

9 Nothing contained in the said Act No 5 of 1861[1] shall be deemed to prevent the Local Government from investing any police officer with the powers of a Magistrate for the purpose of inquiring into or trying any offence committed by a police-officer and punishable under the said Act or this Regulation.

THE CHITTAGONG HILL-TRACTS REGULATION, 1900  
(REGULATION 1 OF 1900)

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[1] The Police Act, 1861. It is printed in the General Acts, 1834-67, Ed 1898, p 379

## [Reg. 1 of 1900] THE CHITTAGONG HILL TRACTS REGULATION, 1900

(Chapter I—Preliminary—Sec 1.)

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## THE SCHEDULE.

## ENACTMENTS DECLARED IN FORCE IN THE CHITTAGONG HILL-TRACTS

## THE CHITTAGONG HILL-TRACTS REGULATION, 1900

(REGULATION 1 OF 1900) [1]

[17th January, 1900]

A Regulation to declare the law applicable in, and provide for the administration of, the Chittagong Hill-tracts in Bengal.

WHEREAS it is expedient to declare the law applicable in, and provide for the administration of, the Chittagong Hill-tracts in Bengal, It is hereby enacted as follows —

## CHAPTER I.

## PRELIMINARY.

1 (1) This Regulation may be called the Chittagong Hill-tracts Regulation, 1900.

(2) It extends to the Chittagong Hill-tracts ; and

Short title,  
extent and  
commence-  
ment.

[1] LOCAL EXTENT—This Regulation extends only to the Chittagong Hill tracts—see s. 1 (2). For power to define the boundaries of the tracts, see s 2 (2)

(3) It shall come into force on such date [1] as the Local Government may by notification in the Calcutta Gazette, appoint

## Definitions

2 (1) In this Regulation—

(a) the expression “Chittagong Hill-tracts” means the territories for the time being defined as such by notification under sub-section

(2) and

(b) “Commissioner” means the Commissioner of the Chittagong Division

(2) The Local Government may, with the previous sanction of the Governor General in Council, by notification in the Calcutta Gazette, define the boundaries [2] of the Chittagong Hill-tracts, and may, in like manner, vary those boundaries

## CHAPTER II

## LAWS

Chittagong Hill tracts how to be administered

3 Subject to the provisions of this Regulation, the administration of the Chittagong Hill-tracts shall be carried on in accordance with the rules for the time being in force under section 18

Enactments applicable in Chittagong Hill tracts

4. (1) The enactments[3] specified in the Schedule, to the extent and with the modifications therein set forth and so far as they are not inconsistent with this Regulation or the rules for the time being in force thereunder, are hereby declared to be in force in the Chittagong Hill-tracts

(2) No other enactment heretofore or hereafter passed shall be deemed to apply in the Chittagong Hill tracts

Provided that the Local Government may, with the previous sanction of the Governor General in Council, by notification in the Calcutta Gazette,—

(a) declare that any other enactment[3] shall apply in the said Tracts, either wholly or to the extent or with the modifications which may be set forth in the notification, or

(b) declare that any enactment which is specified in the schedule, or which has been declared to apply by a notification under clause (a) of this sub-section, shall cease to apply in the said Tracts.

[1] The 1st May, 1900—see Calcutta Gazette, 1900 Pt I, p 350

[2] For the boundaries as defined under section 2 (2), see Notification No. 121P D., dated the 1st May, 1900, in Calcutta Gazette, 1900, Pt I, p 423

[3] As to what enactments are now in force in the Chittagong Hill-tracts, see Vol. V., Pt. V I A and B.

of 1900]

REGULATION, 1900

*Chapter III — Appointment and Powers of certain Officers — Chapter IV —  
Arms, Ammunition, Drugs and Liquor — Secs 5-11.)*

## CHAPTER III

## APPOINTMENT AND POWERS OF CERTAIN OFFICERS

5 The Local Government may, by notification in the Calcutta Gazette,— Appointment of Superintendent and subordinate officers

(a) appoint any person to be the Superintendent of the Chittagong Hill-tracts, and

(b) appoint so many Assistant Superintendents and other officers as it thinks fit to assist in the administration of the said Tracts

6. The Local Government may, by notification in the Calcutta Gazette, invest any Assistant Superintendent with all or any of the powers of the Superintendent under this Regulation or the rules for the time being in force thereunder, and define the local limits of his jurisdiction Investment of Assistant Superintendents with powers of Superintendent

7 The Chittagong Hill-tracts shall constitute a district for the purposes of criminal and civil jurisdiction and for revenue and general purposes, the Superintendents shall be the District Magistrate, and, subject to any orders passed by the Local Government under section 6, the general administration of the said Tracts, in criminal, civil, revenue and all other matters, shall be vested in the Superintendent Chittagong Hill tracts to be a district under the Superintendent

8. (1) The Chittagong Hill-tracts shall constitute a sessions division, and the Commissioner shall be the Sessions Judge Chittagong Hill tracts to be a sessions division under the Commissioner.

(2) As Sessions Judge the Commissioner may take cognizance of any offence as a Court of original jurisdiction, without the accused being committed to him by a Magistrate for trial, and, when so taking cognizance, shall follow the procedure prescribed by the Code of Criminal Procedure, 1898, [1] for the trial of warrant-cases by Magistrates

5 of 1898

9. The Local Government shall exercise the powers of a High Court for the purpose of the submission of sentences of death for confirmation under the Code of Criminal Procedure, 1898 [1], and the Commissioner shall exercise the powers of a High Court for all other purposes of the said Code High Court.

5 of 1898

10. The Superintendent may withdraw any criminal or civil case pending before any officer or Court in the Chittagong Hill-tracts, and may either try it himself or refer it for trial to some other officer or Court. Power to withdraw cases

## CHAPTER IV.

## ARMS, AMMUNITION, DRUGS AND LIQUOR.

11. (1) The Superintendent may fix the number of firearms and the quantity and description of ammunition which may be possessed by the Possession of firearms and ammunition.

and manu-  
facture of  
gunpowder

inhabitants of any village, and may grant permission, either to such inhabitants collectively or to any of them individually, to possess such firearms and ammunition as he may think fit

(2) All firearms for the possession of which permission is given under sub-section (1), shall be marked and entered in a register

(3) Any permission granted under sub-section (1) to possess firearms and ammunition may be withdrawn by the Superintendent, and thereupon all firearms and ammunition referred to in such permission shall be delivered to the Superintendent or one of his subordinates

(4) The Superintendent may grant permission to any person to manufacture gunpowder, and may withdraw such permission

(5) Whoever, without the permission of the Superintendent, possesses or exports from the Chittagong Hill-tracts any firearms or ammunition, or manufactures any gunpowder shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both

(6) The Superintendent may, with the previous sanction of the Local Government, by order in writing, direct that sub-sections (1), (2), (4) and (5), or any of them, shall not apply in any village specified in the order

Daos, spears  
and bows and  
arrows

12. (1) The Superintendent may, with the previous sanction of the Commissioner, by order in writing, prohibit all or any of the inhabitants of any village from carrying daos, spears and bows and arrows, or any of those weapons, in any tract to be defined in the order, if he is of opinion that such prohibition is necessary to the peace of such tract

(2) Every order made under sub-section (1) shall specify the length of time during which it shall remain in force

(3) Whoever disobeys an order made under sub-section (1) shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both

Intoxicating  
drugs

13 (1) Whoever, except under and in accordance with a license granted by the Superintendent, imports, exports, manufactures, possesses or sells opium, ganja or charas, or any preparation thereof, or cultivates any plant from which opium, ganja or charas can be produced, shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

(2) Notwithstanding anything contained in sub-section (1), any person may possess, for domestic use, five tolas of opium, ganja or charas, or of any preparation thereof, without having a license granted by the Superintendent.



of 1900 ]

REGULATION, 1900

(Chapter IV—Arms, Ammunition, Drugs and Liquor—Chapter V—  
Miscellaneous—Secs 14-17)

14 (1) Whoever, except under and in accordance with a license granted by the Superintendent, imports or sells foreign spirit or fermented liquor, shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both

Foreign  
spirit and  
fermented  
liquor

(2) Nothing in this section applies—

(a) to the import by any person, for his private use and consumption, and not for sale, of any foreign spirit or fermented liquor on which duty has been paid, or

(b) to the sale of any such spirit or liquor legally procured by any person for his private use and consumption and sold by him, or by auction on his behalf, or on behalf of his representatives in interest, upon his quitting a station or after his decease

*Explanation*—For the purposes of this section, the expression “foreign spirit or fermented liquor” means any spirit or fermented liquor not manufactured or produced in the Chittagong Hill-tracts.

15. Whoever, except under and in accordance with a license granted by the Superintendent, exports or sells spirit or fermented liquor manufactured or produced in the Chittagong Hill-tracts, shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both

Locally made  
spirit and  
fermented  
liquor

## CHAPTER V

### MISCELLANEOUS.

5 of 1861

16 The Chittagong Hill-tracts shall be deemed to be a general police-district within the meaning of the Police Act, 1861, [1] and Bengal Act 7 of 1869 (*an Act to amend the constitution of the Police force in Bengal*), [2] and the Commissioner shall exercise therein all the powers and authority conferred on an Inspector-General of Police

Police

17 (1) All officers in the Chittagong Hill-tracts shall be subordinate to the Superintendent, who may revise any order made by any such officer, including an Assistant Superintendent invested with any of the powers of the Superintendent under section 6.

Control and  
revision

(2) The Commissioner may revise any order made under this Regulation by the Superintendent or by any other officer in the Chittagong Hill-tracts.

(3) The Local Government may revise any order made under this Regulation

[1] Printed in the General Acts, 1864-67, Ed. 1893, p. 379

[2] The Bengal Police Act, 1869. It is printed in Vol IV of this Code

Power to  
make rules

18 (1) The Local Government may make rules [1] for carrying into effect the objects and purposes of this Regulation

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) provide for the administration of civil justice in the Chittagong Hill-tracts,
- (b) prohibit, restrict or regulate the appearance of legal practitioners in cases arising in the said Tracts,
- (c) provide for the registration of documents in the said Tracts,
- (d) regulate or restrict the transfer of land in the said Tracts,
- (e) provide for the sub-division of the said Tracts into circles, those circles into taluks and those taluks into mauzas,
- (f) provide for the collection of the rents and the administration of the revenue generally in the said circles, taluks and mauzas through the chiefs, dewans and headmen,
- (g) define the powers and jurisdiction of the chiefs, dewans and headmen, and regulate the exercise by them of such powers and jurisdiction,
- (h) regulate the appointment and dismissal of dewans and headmen,
- (i) provide for the remuneration of chiefs, dewans, headmen and village-officers generally by the assignment of lands for the purpose or otherwise as may be thought desirable,
- (j) prohibit, restrict or regulate the migration of cultivating raiyats from one circle to another,
- (k) regulate the acquisition by Government of land required for public purposes,
- (l) provide for the levy of taxes in the said Tracts, and
- (m) regulate the procedure to be observed by officers acting under this Regulation or the rules for the time being in force thereunder

(3) All rules made by the Local Government under this section shall be published in the Calcutta Gazette and, on such publication, shall have effect as if enacted by this Regulation

Bar to juris-  
diction of  
Civil and  
Criminal  
Courts

19. Except as provided in this Regulation or in any other enactment for the time being in force, a decision passed, act done or order made under this Regulation or the rules thereunder, shall not be called in question in any Civil or Criminal Court.

20. [Repeal of certain enactments] *Rep by the Repealing and Amending Act, 1903 (1 of 1903).*

[1] For rules, see the Bengal Local Statutory Rules and Orders 1903, Vol II, pp. 92 to 100 also Notification No. 2544 P, dated 9th December, 1902, in Calcutta Gazette, 1902, Pt I, p. 1703.

of 1900]

REGULATION, 1900

*(The Schedule )*

## THE SCHEDULE

*(See Section 4)*

ENACTMENTS DECLARED IN FORCE IN THE CHITTAGONG HILL-TRACTS [1]

1	2	3	4	5
Year	No	Short title or subject	Extent of application	Modifications
<i>1—Acts of the Governor General in Council</i>				
1813	5	The Indian Slavery Act, 1813	So much as may, from time to time, be in force in the district of Chittagong	
1850	18	The Judicial Officers Protection Act, 1850	Ditto ditto	
"	34	The State Prisoners Act, 1850	So much as may, from time to time be in force in the district of Chittagong	
1857	11	The State Offences Act, 1857	Ditto ditto	
1858	3	The State Prisoners Act, 1858	Ditto ditto	
1860	45	The Indian Penal Code	Ditto ditto	
1861	5	The Police Act, 1861	Ditto ditto	
1864	6	The Whipping Act 1864	Ditto ditto	For section 6 the following shall be substituted, namely — "6. Notwithstanding Whipping in lieu any of or in addition to, thing other punishment in the foregoing sections, a person convicted of any offence may be punished with whipping in lieu of, or in addition to, any other punishment to which he may be liable"
1872	1	The Indian Evidence Act, 1872.	Ditto ditto.	

[1] As to what enactments are now in force in the Chittagong Hill-tracts, see Vol. V, Part VI A and B (2)

THE SCHEDULE—*contd*ENACTMENTS DECLARED IN FORCE IN THE CHITTAGONG HILL-TRACTS —*contd*

1	2	3	4	5
Year	No	Short title or subject	Extent of application	Modifications
<i>1—Acts of the Governor General in Council—contd</i>				
1877	15	The Indian Limitation Act 1877	So much as may, from time to time, be in force in the district of Chittagong	
1878	7	The Indian Forest Act, 1878	Ditto ditto	
1879	6	The Elephants Preservation Act, 1879	Ditto ditto	
1897	10	The General Clauses Act, 1897	Ditto ditto	
1898	5	The Code of Criminal Procedure, 1898	Ditto ditto	Nothing in the Code shall apply to cases tried by the chiefs, dewans or headmen in exercise of the powers conferred upon them by rules made under section 18 of this Regulation
"	6	The Indian Post Office Act, 1898	Ditto ditto	
<i>2—Acts of the Lieutenant Governor of Bengal in Council</i>				
1869	7	Police	So much as may, from time to time, be in force in the district of Chittagong.	
1899	1	The Bengal General Clauses Act, 1899.	Ditto ditto	
<i>3—Regulation of the Bengal Code.</i>				
1818	3	The Bengal State Prisoners Regulation, 1818	So much as may, from time to time, be in force in the district of Chittagong	
<i>4.—Regulation made under the Government of India Act, 1870 (33 Vict, c. 3)</i>				
1881	3	The Chittagong Hill tracts Frontier Police Regulation, 1881	.	For the words "Deputy Commissioner," wherever they occur, the word "Superintendent" shall be substituted

[Act 37 of 1855] THE SONTHAL PARGANAS ACT, 1855.

THE SONTHAL PARGANAS ACT, 1855<sup>[1]</sup>

(ACT 37 OF 1855)

[ 22nd December, 1855 ]

An Act <sup>[2]</sup> to remove from the operation of the general Laws and Regulations certain districts inhabited by Sonthals and others, and to place the same under the superintendence of an officer to be specially appointed for that purpose

[2] *WHEREAS the general Regulations and Acts of Government now in force in the Presidency of Bengal are not adapted to the uncivilized race of people called Sonthals, and it is therefore expedient to remove from the operation of such laws the district called the Damin-i-Koh, and other districts which are inhabited principally by that tribe, It is enacted as follows —* Preamble

1 *Clause 1 —* <sup>[3]</sup> *The districts described in the Schedule to this Act are hereby removed from the operation of the general Regulations of the Bengal Code and of the laws passed by the Governor General of India in Council, except so far as is hereinafter provided, and no law which shall hereafter be passed by the Governor General of India in Council shall be deemed to extend to any part of the said districts, unless the same shall be specially named therein* Districts removed from operation of General Regulations

*Provided that nothing herein contained shall* \* \* \* <sup>[3]</sup> *remove any part of the said districts from the operation of Regulation 10 of 1804* <sup>[4]</sup> *of the Bengal Code, nor shall this Act affect any revenue-settlement, nor any law relating to the recovery of permanently-settled land-revenue due under the same* Proviso.

[1] **SHORT TITLE** — This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), *ante*, p 18

**LOCAL EXTENT** — This Act extends only to the Sonthal Parganas, as described in the Schedule, *post*, p 291 — *see s 1, clause 1* It is formally included in the Schedule of laws in force in these Parganas — *see post*, p 304

**PROSPECTIVE REFERENCE** — The Act will be repealed by the Scheduled Districts Act, 1874 (14 of 1874, printed in the General Acts, 1868-76, Ed. 1898, p 467), whenever that Act is brought into force in the Sonthal Parganas

**REPRINT** — The Act is reprinted in the Sonthal Parganas Manual, 1898, pp. 25 to 27

**RULES AND ORDERS** — For a collection of rules and orders in force in the Sonthal Parganas, *see* the Sonthal Parganas Manual, 1898, pp 56 to 115

For an order issued under Act 37 of 1855, as to the powers of Sub Deputy Collectors, *see* the Bengal Local Statutory Rules and Orders, 1903, Vol. II, p. 101

For notes as to orders and rules issued under Regs 3 of 1872 and 2 of 1886, *see* notes on pp. 293 and 316, *post*

[2] The portions of the title, preamble and section 1 which are printed in italics appear to be superseded by the Sonthal Parganas Settlement Regulation (3 of 1872), section 3, printed *post*, p 294

[3] The words "extend to or affect any case now pending in any Court, nor", which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted

[4] The Bengal State-Offences Regulation, 1804. It is printed in Vol IV of this Code.

*nor any law relating to the sale of lands for arrears of revenue, or relating to patni taluks or to the sale thereof for arrears of rent, nor any law relating to mutations or batwara or to any other matter to which the Lieutenant-Governor of Bengal shall at any time notify in the Calcutta Gazette that the general Laws and Regulations shall extend.*

Superintendence of districts

*Clause 2*—The said districts shall be placed under the superintendence and jurisdiction of an officer or officers [1] to be appointed in that behalf by the Lieutenant-Governor of Bengal, and such officer or officers shall be subject to the directions [2] and control of the said Lieutenant-Governor.

Administration of justice and collection of revenue

2 The administration of civil and criminal justice and the collection of the revenue, not being permanently-settled land-revenue within the said districts, are hereby vested in the officer or officers to be so appointed

Suits exceeding value of one thousand rupees

Provided that all civil suits in which the matter in dispute shall exceed the value of one thousand rupees shall be tried and determined according to the general laws and Regulations in the same manner as if this Act had not been passed : [3]

Collection of permanently-settled land revenue

Provided also that all permanently-settled land-revenue shall be collected and paid at the same places and in the same manner as if this Act had not been passed

Administration of civil and criminal justice

3 In the administration of civil and criminal justice the officer or officers appointed under this Act [4] \* \* \* \* \* may hold his or their Courts either within the said district or at any place or places that may be appointed for that purpose by the said Lieutenant-Governor, and any person liable to be imprisoned in any civil or criminal jail may be imprisoned in any civil or criminal jail, as the case may be, which the said Lieutenant-Governor may order, whether the same be in or out of the said district.

4 [*Decisions final, confirmation of death-sentence, appeal, procedure on references to Sadar Court*] *Rep by the Sonthal Parganas Justice Regulation, 1893 (5 of 1893).*

[1] For provisions as to Courts of Officers appointed under this section, *see the Sonthal Parganas Justice Regulation, 1893 (5 of 1893), Ch III, Pt II, post, p 329*

[2] Any directions issued under clause 2 of section 1 must be consistent with enactments in force in the Sonthal Parganas—*see the Sonthal Parganas Justice Regulation, 1893 (5 of 1893), s 27, post, p 332*

[3] In reference to this proviso, *see the Sonthal Parganas Settlement Regulation (3 of 1872), s. 3 (2), post, p 294, and the Sonthal Parganas Justice Regulation, 1893 (5 of 1893), s 15, post, p 329.*

[4] The words "shall be guided by the spirit and principle of the Civil and Criminal Laws administered in the Courts of the East India Company in the Presidency of Bengal, but shall not be bound to take the *fatwa* of a Law-officer, and he or they," which were repealed by the Sonthal Parganas Justice Regulation, 1893 (5 of 1893), are omitted

of 1855 ]

PARGANAS ACT, 1855

(Schedule )

5 [Saving of laws relating to European British subjects] Rep by the  
Sonthal Parganas Justice Regulation, 1893 (5 of 1893)

6 [Commencement of Act] Rep by the Repealing Act, 1870 (14 of 1870)

## [I] SCHEDULE

The Dámin-i-Koh

So much of Pargana Bhágalpur and of Pargana Satiyári as lies east of the Geruá Nádí and south of a line drawn eastward from Hamzá Chak to the village of Dighi

ZILA BHÁGALPUR	{	Pargana Tiliyágárhí	{	Except such parts of them as are now or may hereafter be situate on the left bank of the main stream of the Ganges, so that in any change in the course of the river the main stream shall be the boundary
		„ Jamuní		
		„ Chituhíyá		
		„ Kánkjaul		
		„ Bahadai pur		
		„ Akbainagar		
		„ Inayatnagar		
		„ Makíáin		
		„ Sultanganj		
		„ Ambar.		
		„ Sultanabád		
ZILA BIRBHUM	{	„ Goddá	{	Except such detached villages as lie within the general boundaries of parganas not mentioned in this schedule.
		„ Amolmotiyá.		
		„ Pasai		
		„ Hándwá		
		Tappa Manihári		
		„ Belpattá		
		Pargana Pabbiyá		
		Tappa Sarath Deogarh		
		„ Kandit Karaiyá.		
		„ Muhammadábád		
		Such part of Pargana Dámin Mauleshwar as lies north of the Chilla or Chandan Ghát Nala.		

Such detached portions of other parganas and tappas as lie within the general boundaries of any of the above-mentioned parganas and tappas.

Such portions of parganas belonging to Malda and Purnea below the village of Khidirpur in Pargana Tiliyágárhí, as are now or may hereafter be situate on the right bank of the main stream of the Ganges

[1] This Schedule was virtually substituted for the original schedule by the Sonthal Parganas Act, 1857 (10 of 1857), printed *post*, p. 292.

## THE SONTHAL PARGANAS ACT, 1857 [1]

(ACT 10 OF 1857)

[20th May, 1857]

## An Act to amend Act 37 of 1855.

## Preamble

WHEREAS by Act 37 of 1855 certain districts described in the schedule to the said Act were removed from the operation of the general Regulations and Acts, and whereas it is expedient to make certain alterations in respect to the districts so removed, It is enacted as follows

Districts removed from operation of general regulations and Acts

\* \* \* [2] all the provisions of the said Act, which are applicable to the districts described in the said schedule, shall, after the passing of this Act, be applicable only to the districts described in the schedule to this Act, in the same manner as if the schedule to this Act had been the schedule to Act 37 of 1855

## SCHEDULE

[Printed *ante*, p. 291]

## THE SONTHAL PARGANAS SETTLEMENT REGULATION

(REGULATION 3 OF 1872)

## CONTENTS [3]

## SECTION.

- 1 Short title.
2. Local extent  
Commencement.  
Construction  
Enactments in force in the Sonthal Parganas.  
[*Repealed*]

[1] SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), printed *ante*, p. 18

LOCAL EXTENT.—This Act extends to the Sonthal Parganas, as described in the Schedule, printed *ante*, p. 291.

PROSPECTIVE REPEAL.—This Act will be repealed by the Scheduled Districts Act 1874 (14 of 1874, printed in the General Acts, 1868-76, Ed 1898, p. 467), whenever that Act is brought into force in the Sonthal Parganas

[2] Portion repealed by the Repealing Act, 1870 (14 of 1870) is omitted.

[3] This table has been newly added



## [Reg 3 of 1872] THE SONTHAL PARGANAS SETTLEMENT REGULATION

## SECTION

- 5 Jurisdiction as to certain suits until settlement completed
- 6 Usury
- 7 Exception of agreements from stamp duty
- 8 Court-fees Act not applicable to certain suits
- 9 Power to order settlement
- 10 Power to appoint settlement-officers
- 11 Bar to jurisdiction of Civil Courts
- 12 Inquiry into landed rights.
- 13 Form of record-of rights
- 14 Notice when record-of-rights about to be prepared.
- 15 Demarcation of excess waste
- 16 Review of decisions regarding rights of village-headmen.
- 17 Manjhis or village-headmen
- 18 Rights of raiyats or cultivators
- 19 [Repealed]
20. Special considerations in adjusting rents.
- 21 Settlement of rent of land reclaimed from forest or waste
- 22 Instalments of rent
- 23 Record of village-customs.
- 24 Publication of record-of-rights  
Objections against such record
25. Record to be final after a year's publication.
26. District officers may take up land-cases, and pass provisional orders.

## SCHEDULE.

## THE SONTHAL PARGANAS SETTLEMENT REGULATION

(REGULATION 3 OF 1872) [1]

[8th May, 1872.]

A Regulation for the peace and good government of the territory  
known as the Sonthal Parganas

1 This Regulation may be called the Sonthal Parganas Settlement Regulation. Short title.

[1] LOCAL EXTENT.—This Regulation extends only to the Sonthal Parganas, as described in the Schedule printed at the end of the Sonthal Parganas Act, 1855 (37 of 1855), *ante*, p. 291—*see* s. 2 of the Regulation. The Regulation is formally included in the Schedule of laws in force in these Parganas—*see post*, p. 313.

AMENDMENTS.—The Sonthal Parganas Rent Regulation, 1886 (2 of 1883), is to be read with, and be taken as supplementary to, this Regulation,—*see* Regulation 2 of 1886, s. 1(3), *post*, p. 316.

REPRINTS.—Regulation 3 of 1872 has been reprinted (by the Legislative Department of the Government of India) as modified by subsequent legislation up to the 1st October, 1899.

The Regulation is also reprinted in the Sonthal Parganas Manual, 1898, pp. 29 to 36.

ORDER AND RULES.—For an order issued under sections 5 and 26 of Reg. 3 of 1872, *see* the Sonthal Parganas Manual, 1898, p. 56; and for rules made under Reg. 3 of 1872, s. 10, and Reg. 2 of 1886, s. 30, *see* the Bengal Local Statutory Rules and Orders, 1903, Vol. II, pp. 102 to 104.

## Local extent

2 It extends to the whole of the Sonthal Parganas, as described in the Schedule [1] attached to Act 10 of 1857 and in the Notification [1] of the Governor General in Council, No 478, dated 12th March, 1872

## Commencement

It shall come into force on the first day of May, 1872

## Construction

It shall be read with Act 37 of 1855 [2] and Act 10 of 1857 [3]

## Enactments in force in the Sonthal Parganas

[4] 3. (1) The enactments specified in the Schedule shall be deemed to be in force in the Sonthal Parganas, except—

(a) such portions of such enactments as have been repealed by any enactment specified in the schedule, and

(b) in the case of any enactment passed before the 25th day of August 1886, such portions thereof as had on that day been repealed in the territories to which the enactment generally applies

(2) No other enactment, heretofore or hereafter passed, shall, unless the Sonthal Parganas be expressly named therein, be deemed to apply to the said Parganas, except so far as regards the trial and determination of the civil suits referred to in section 2 of Act 37 of 1855, [2] in which the matter in dispute exceeds the value of one thousand rupees, when such suits are tried in Courts established under the Bengal [5] [United Provinces] and Assam Civil Courts Act, 1887 [6]

12 of 1887

(3) Notwithstanding anything hereinbefore contained, the Local Government may, by notification in the Calcutta Gazette,—

(a) declare that any other enactment [7] shall be deemed to be in force in the Sonthal Parganas,

(b) withdraw any such declaration, or

(c) with the previous sanction of the Governor General in Council, declare that any enactment specified in the schedule shall cease to be in force in the Sonthal Parganas

4. [Power to invest officers with Civil Court powers] Rep by the Sonthal Parganas Justice Regulation, 1893 (5 of 1893).

[1] The Schedule is printed *ante*, p 291, and the Notification is published in the Gazette of India, 1872, Pt I, p 240. The descriptions in the Schedule and the Notification are identical

[2] The Sonthal Parganas Act, 1855. It is printed *ante*, p 289

[3] The Sonthal Parganas Act, 1857. It is printed *ante*, p 292

[4] This section was substituted for the original s 3 [as amended by the Sonthal Parganas Laws Regulation, 1886 (2 of 1886)] by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3, *post*, p 333

[5] The words "United Provinces" have been substituted for the words "North-Western Provinces"—see the United Provinces (Designation) Act, 1902 (7 of 1902), s. 2, in General Acts, 1899-03, Ed 1904, p. 201.

[6] Printed *ante*, p. 199

[7] As to what enactments are now in force in the Sonthal Parganas, see Vol. V, Part VIA and B(c).

of 1872 ]

## SETTLEMENT REGULATION

(Secs 5, 6)

5. Till such time as a settlement of the whole or any part of the Sonthal Parganas shall be made under the rules hereinafter provided, and the said settlement shall be declared by a notification in the Calcutta Gazette to have been completed and concluded, no suit shall lie in any Court established under the said Act 6 of 1871 [1] in regard to any land or any interest in or arising out of any land, or for the rent or profits of any land, or regarding any village-headship or other office connected with the land, except as hereinafter provided, but such suits shall be heard and determined by the officers appointed by the Lieutenant-Governor of Bengal under section 2 of the said Act 37 of 1855, [2] or by the Settlement-officers hereinafter mentioned according as the said Lieutenant-Governor shall from time to time direct

Jurisdiction  
as to certain  
suits until  
settlement  
completed

Provided that, if it shall appear to any officer empowered to try any such suit to be just and expedient that such suit, or that any issue arising in such suit, should be tried by the Court established under the said Act 6 of 1871 [1] which would have had jurisdiction if this provision had not been made, he may (subject to the direction and control of the officers to whom he is subordinate), either on the prayer of the parties or on his own motion, make a certificate to that effect and transfer the record, if any, to the said Court

On the receipt of such certificate, the said Court may proceed to try and determine such suit or issue under the same rules and in the same manner as if the suit had been originally instituted therein.

On the decision of such suit or issue the Court shall certify its decision to the officer by whom the certificate was made, who shall thereupon apply or execute such decision.

6. All Courts having jurisdiction in the Sonthal Parganas shall observe the following rules relating to usury, namely — Usury.

(a) interest on any debt or liability for a period exceeding one year shall not be decreed at a higher rate than two *per cent per mensem*, notwithstanding any agreement to the contrary, and no compound interest arising from any intermediate adjustment of account shall be decreed

(b) the total interest decreed on any loan or debt shall never exceed one-fourth of the principal sum, if the period be not more than one year, and shall not in any other case exceed the principal of the original debt or loan.

[1] Act 6 of 1871 was referred to in section 4 of this Regulation, which has been repealed. The references to that Act in the present section should now be construed as references to the Bengal, United Provinces and Assam Civil Courts Act, 1887 (12 of 1887)—see s 2(3) of that Act, *ante* p 200

[2] The Sonthal Parganas Act 1855. It is printed *ante*, p. 289.

(Secs 7-12)

[1] [*Explanation*—The expression “intermediate adjustment of account” in clause (a) of this section means any adjustment of account which is not final, and includes the renewal of an existing claim by bond, decree or otherwise when, without the passing of fresh consideration, the original claim is increased by such renewal]

[1] *Illustration*—A bond is given for Rs 75, of which Rs 25 are interest. Unless the obligee can prove to the satisfaction of the Court that he gave such consideration for the bond as rendered the transaction fair and equitable, of the Rs 75, Rs 50 only will bear interest, and the limit of the claim on the bond will be Rs 100]

Exemption  
of agreements  
from stamp  
duty

7. Agreements between cultivators or headmen of villages and the persons to whom rent is payable by them, respecting such rent or regulating their respective rights in the land for which such rent is payable, shall not be liable to any stamp

Court fees  
Act not ap-  
plicable to cer-  
tain suits

8. The Court-fees Act, 1870,[2] shall not be applicable to any suit or other proceeding before any officer making a settlement, or before any officer appointed under Act 37 of 1855,[3] and regarding any matter which he is authorized to adjudicate in anticipation of settlement under section 26 of this Regulation. 7 of 1870.

Power to or-  
der sett-  
lement.

9 The Lieutenant-Governor may[4] [from time to time], by notification in the Calcutta Gazette, declare that a settlement shall be made of the whole or any part of the Sonthal Parganas for the purpose of ascertaining and recording the various interests and rights in the lands

Power to  
appoint  
Settlement-  
officers.

10 The Lieutenant-Governor may appoint the officers by whom the settlement is to be made, and may invest any officer or officers with the control over them by way of appeal and revision, and may make rules for the procedure of such officers in the investigation into rights in the land and the hearing of suits, and generally for the guidance of such officers

The Lieutenant-Governor may reserve to himself an ultimate power of revision in respect of any cases decided in any Settlement Court

Bar to juris-  
diction of  
Civil Courts

11. Except as provided in section 25, no suit shall lie in any Civil Court regarding any matter decided by any Settlement Court under these rules, but the decisions and orders of the Settlement Courts made under these rules, regarding the interests and rights above-mentioned, shall have the force of a decree of Court.

Inquiry into  
landed rights.

12. The Settlement-officers shall have power to inquire into, to decide and to record the rights of the zamindars and other proprietors, the rights of the

[1] This *Explanation* and *Illustration* were added to s 6 by the Sonthal Parganas Justice Regulation, 1893 (5 of 1893), s. 24, *post*, p 332

[2] Printed in the General Acts, 1868-76, Ed 1898, p 24

[3] The Sonthal Parganas Act 1855 It is printed *ante*, p. 289

[4] These words in square brackets in s 9 were inserted by the Sonthal Parganas Rent Regulation, 1886 (2 of 1886), s. 4, *post*, p. 317.

of 1872 ]

## SETTLEMENT REGULATION

(Secs 13-16)

tenants or raiyats, the rights of the mánjhis or other headmen as against both the proprietors and the tenants, and also any other landed rights to which, by the law or custom of the country or of any tribe, any person may have legal or equitable claim

Provided that no claim shall be heard to any rights or interests of which the claimant has not held possession either himself or through persons from whom he claims at some time since the first day of January, 1859

13. The record-of-rights to be prepared by a Settlement-officer shall show the nature and incidents of each right and interest held by each class of occupiers or owners in a village, or, if need be, of each individual owner, occupier or headman in a village

Form of record of rights.

14 The Settlement officer shall give due notice to the people of a village for which he is about to prepare a record-of-rights, so that all persons interested may bring forward their claims either in writing or by verbal application

Notice when record of-rights about to be prepared

But the Settlement-officer shall inquire into, settle and record all rights in, or claims to, the lands of a village of which he is preparing a record-of-rights, even though such claims or rights may not be urged by the parties interested

15. The Settlement-officer shall demarcate and define the boundaries of each village, and, when doing so, he may exclude from such village any large area of waste or forest which may be beyond the reasonable requirements of the village

Demarcation of excess waste

Provided that no block of waste-land or forest of which the people of the village have hitherto had the use shall be excluded from such village if before such exclusion one-third of the total area of the village is cultivated or is fallow in due course of agricultural rotation, according to the practice of the country.

The exclusion of any waste-land from any village under this provision shall not affect any proprietary rights in the land, but such rights shall remain intact.

16. Any decision regarding the rights of the mánjhis or other village-headmen, passed by any officer appointed under Act 37 of 1855, [1] which may on due inquiry be found by the Settlement-officer to have been passed under a misapprehension as to the laws in force in the Sonthal Parganas or without sufficient inquiry into, and regard for, the customs of the country and of the people, may be reviewed and modified by such Settlement-officer.

Review of decisions regarding rights of village-headmen.

[1] The Sonthal Parganas Act, 1855. It is printed *ante*, p 289.

(Secs 17, 18)

Manjhis or  
village head  
men

17 In deciding the status, rights and claims of mánjhi or other village-headmen, the Settlement officer shall have regard to the following rules —

(a) Any mánjhi or other headman of a village who may have lost his office, or the management of his village, for whatever cause, or in whatever manner, on any date after the thirty-first December, 1858, shall be eligible for re-instatement in such headship, and in the lease or management of the village, if he has a fair and equitable claim thereto

(b) No claim to be recorded as manjhi or headman with an occupancy-right in the lease or management of a village shall be conclusively shut out by reason of the claimant having been described as a mustájr or farmer in any deed to which such claimant may have been a party

(c) If the rent now payable by any mánjhi or headman of a village appear to the Settlement-officer inequitable, by reason that such person has rights independent of contract, or that he was not in a position fairly and freely to contract, the Settlement-officer may modify and abate such rent and fix a fair and equitable rent. If the rent appears to the Settlement-officer to be too low, he may enhance such rent either immediately or prospectively on the termination of any existing agreement. The rent payable by any mánjhi, farmer or other headman of a village shall be determined on a consideration of the rates of rent payable in the neighbourhood, and of the number of ploughs at work in the village, and of such other matters as may appear to the Settlement-officer to afford ground for an equitable decision. If necessary, the cultivated and uncultivated land in such village may be measured.

Rights of  
rayats or  
cultivators

18. In deciding the status, rights and claims of rayats or occupiers, the Settlement-officer shall have regard to the following rules —

(a) Any rayat who may, either himself or through persons from whom he inherits, have held fields in a village for a period of twelve years shall be deemed to have occupancy rights in such fields.

(b) Any rayat who, having possessed a right of occupancy or an equitable claim to occupancy has lost possession of his land or any portion of his land since the thirty-first day of December, 1858, may claim to be replaced in possession of such land, and to be recorded as possessing occupancy-rights therein, if in the opinion of the Settlement-officer he is justly entitled thereto

(c) Any rayat who has exchanged fields for other fields in the same village shall be held to have acquired an occupancy-right in the fields taken in exchange in the same manner as if no exchange had taken place:

of 1872.]

## SETTLEMENT REGULATION

(Secs 20-23)

(d) Where raiyats holding lands under a mánjhi or other headman of a village pay their share of the village-rent according to any fixed custom or proportion, or where the share of rent payable by each raiyat is fixed annually or periodically by the village elders or in any other way, the existence of such custom shall be recorded

(e) When the raiyats of any village pay rent either direct to the proprietor or to his agent, or to any farmer, or to a mánjhi, the Settlement-officer shall record such rents if they are fair and equitable. If such rent appears to the Settlement-officer to be unfair and inequitable, he shall inquire into and shall re-settle such rents, and he may make such re-settlement of rents, either according to the number of ploughs owned by each raiyat, or according to the area of the cultivated land held by him, or in any other manner which may be customary and equitable

19. [Term for rents] *Rep by the Sonthal Paraganas Rent Regulation, 1886 (2 of 1886), s 5*

20. In adjusting rents as between proprietors and mánjhis or other headmen and between proprietors, farmers or headmen, and raiyats, the Settlement-officer may, in connection with other circumstances, have regard to the agricultural skill and habits of life of the class or tribe to which the rent-payers may belong

Special considerations in adjusting rents

21. In any case in which the headmen or the raiyats or the persons through whom they claim reclaimed the land from forest or waste, regard shall be had to such fact in settling the rents

Settlement of rent of land reclaimed from forest or waste  
Instalments of rent

22. The Settlement-officer shall decide, and shall enter in the village-record-of-rights, the several instalments of yearly rent and the dates on which such instalments shall be payable by the raiyats and by the mánjhis or headmen

If the number and dates of the existing instalments press hardly upon the people of any village, the Settlement-officer shall have power to reduce the number and alter the dates of such instalments.

The amount and dates of the instalments shall remain unaltered until otherwise ordered by the Lieutenant-Governor.

23. For every village shall be drawn up a paper setting forth the custom of the village or tribe in regard to the following facts. —

Record of village-customs

- (a) the existence of the office of mánjhi or other village-headship and the duties and emoluments of each headman, and the customs of succession to the headship by inheritance, election or otherwise :

- (b) the removal or suspension of a headman for misconduct, and the appointment or election to a vacant headship
- (c) the devolution of the lands held by proprietors or under-proprietors or herdmen or cultivated by rayats, any custom contrary to the ordinary Hindu or Muhammadan law being noted
- (d) the tenure of houses in the village, and the payment of ground rents and dues by non-cultivating residents
- (e) the duties and dues of village watchmen and other village-servants and their succession to, and removal from, office
- (f) the management and usufruct of the waste land, and other matters relating to the internal arrangement of villages.

Publication  
of record of-  
rights

24. After the Settlement-officer shall have made the record-of-rights for any village, he shall notify and publish the contents of such record to the persons interested by posting it conspicuously in the village and otherwise in such manner as may be convenient

Objections  
against such  
record

Any person interested shall thereupon be allowed to bring forward in the original or appellate Settlement Courts any objection he may desire to make to any part of such record and the objection so made shall be inquired into and disposed of by a decision in writing under the hand of the officer presiding in the Court before which such objection may be urged or brought on appeal or otherwise

Record to be  
final after a  
year's publica-  
tion

25 After a period of a year from the date of the publication of the record-of-rights of any village, such record shall be conclusive proof of the rights, and customs therein recorded, other than the rights mentioned in the latter part of this section, except so far as concerns entries in such record regarding which objections by parties interested may still be pending.

[1] [When a record-of-rights has become final or an objection to any entry in a record of-rights has been finally disposed of by the Settlement-officer, the record shall not, until a fresh settlement is made or a new table-of-rates and rent-roll are prepared, be re-opened, without the previous sanction of the Lieutenant-Governor].

But in case of the discovery of material error, it shall be lawful for the

[1] These words in square brackets were substituted for the original sentence by the Sontal Parganas Rent Regulation, 1886 (2 of 1886), s 28, *post*, p 322 The original sentence ran as follows —

When a record of-rights shall have become final or an objection to any entry in a record-of-rights shall have been finally disposed of by the Settlement Courts, such record shall not be re-opened or modified save as provided by the customs of the village, without the previous sanction of the Lieutenant-Governor of Bengal."



of 1872.]

## SETTLEMENT REGULATION

(Sec 26)

said Lieutenant-Governor to direct by a writing under his hand, that the record of any village shall be revised

The Courts established under Act 6 of 1871[1] are empowered to find and determine the rights of zamindars and other proprietors as between themselves, \* \* \* [2] if a suit or issue be referred to the Court under the provisions of section 5, or if a suit be brought to contest the finding or record of the Settlement-officer within three years from the date of the said publication or of the final order of the Revenue Court

But no such suit shall be brought in any Court after the expiration of three years from such date

If in any such suit it shall be found that the finding of the Settlement-officer is erroneous, the record shall be amended accordingly

26 Pending the completion of a settlement under this Regulation, the officers of the Sonthal Parganas appointed under section 2, Act 37 of 1855[3] may, if the Lieutenant-Governor shall so direct, take up and decide under this Regulation, either on their own motion or at the request of the parties, any suit for rent or arrears of rent, or any claim for enhancement or abatement of rent, or any complaint of exaction or improper ouster from land or offices. District Officers may take up land cases.

Decisions regarding rates of rent or the possession of land or offices passed by these officers under this section shall remain in force until such time as the record-of-rights for the village or villages to which such decision may refer shall be prepared

The said officers shall also have power to pass such provisional orders as they may deem required for the maintenance of peace and order in the Sonthal Parganas on all matters referred to in sections 5, 9, 10 and 12 to 24 of this Regulation all such provisional orders shall have the force of a decision of Settlement-officers under these Regulations until such time as the record-of-right shall have been prepared or the matter shall have been decided by a Settlement Court. and pass provisional orders

[1] This reference to Act VI of 1871 should now be construed as a reference to the Bengal, United Provinces and Assam Civil Courts Act, 1887 (12 of 1887),—see s. 2 (5) of that Act, printed *ante*, p. 200.

[2] The words "if any suit affecting such rights be pending at the time when this Regulation shall come into operation, or," which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted

[3] The Sonthal Parganas Act, 1855. It is printed *ante*, p. 289

## THE SCHEDULE [1]

## ENACTMENTS IN FORCE IN THE SONTHAL PARGANAS [2]

(See section 3)

I	2	3	4
Year	Number	Short title or subject	Whole or part
<i>Part I—Regulations of the Bengal Code</i>			
1793	1	The Bengal Permanent Settlement Regulation, 1793	The whole
,	8	The Bengal Decennial Settlement Regulation, 1793	Ditto
„	19	Non-Bādshāhī Lākhurāj Grants .	Ditto
„	37	Bādshāhī Lākhurāj Grants .	Ditto
„	38	The Indian Civil Service (Bengal) Loans Prohibition Regulation, 1793	Ditto
1798	1	Conditional Sales	Ditto
1800	8	Pargana Register .	Section 19
1801	1	Realization of Revenue .	The whole
1804	10	The Bengal State Offences Regulation, 1804 .	Ditto
1806	11	The Bengal Troops Transport and Travellers Assistance Regulation, 1806	Ditto
„	17	Interest, Redemption . .	Ditto
1810	20	Military Bāzāis . . .	Ditto
1812	5	Collection of Land-Revenue . . .	Ditto
„	11	The Bengal Foreign Immigrants Regulation, 1812	Ditto
„	18	Leases by Proprietors, Partitions . .	Ditto
1814	29	Ghātwañ Mahāls . . . .	Ditto.
1817	12	Patwaris . . . .	Ditto.

[1] This Schedule was substituted for the former Schedule by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s 3, *post*, p 333

[2] As to what enactments are now in force in the Sonthal Parganas, *see* Vol V, Part VI A and B (c).

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## SETTLEMENT REGULATION

*(The Schedule)*ENACTMENTS IN FORCE IN THE SONTHAL PARGANAS—*contd*

1	2	3	4
Year	Number	Short title or subject	Whole or part

*Part I—Regulations of the Bengal Code—contd*

1818	3	The Bengal State Prisoners Regulation, 1818	The whole
1819	1	Kanungos and Patwáris . . .	Ditto
"	2	Resumption of Revenue	Ditto
"	8	The Bengal Patní Taluks Regulation, 1819 .	Ditto
1820	1	The Bengal Patní Taluks Regulation, 1820	Ditto
1823	7	The Indian Civil Service (Bengal) Loans Prohibition Regulation, 1823	Ditto
1825	6	The Bengal Troops Transport Regulation, 1825	Ditto
"	11	The Bengal Alluvion and Diluvion Regulation, 1825	Ditto
"	13	Kanúngos . . . . .	Ditto
"	14	Lakhiraj Tenures . . .	Ditto
1829	17	The Bengal Sati Regulation, 1829 . . .	Ditto

*Part II.—Acts of the Governor General of India in Council*

1836	21	Zilas . . . . .	The whole
1837	4	The Property in Land Act, 1837 . . .	Ditto
1841	12	Revenue Arrears . . . . .	Section 2
1843	5	The Indian Slavery Act, 1843 . . . . .	The whole
1847	9	Assessment of new lands . . . . .	Ditto
1848	20	Enforcement of attendance of landholders . . .	Ditto.
1850	12	The Public Accountants Defaults Act, 1850 . . .	Ditto.
"	18	The Judicial Officers Protection Act, 1850 . . .	Ditto
"	21	The Caste Disabilities Removal Act, 1850 . . .	Ditto.

ENACTMENTS IN FORCE IN THE SONTHAL PARGANAS—*contd*

1	2	3	4
Year	Number	Short title or subject	Whole or part

*Part II—Acts of the Governor General of India in Council—contd*

1850	25	The Forfeited Deposits Act, 1850	The whole
*	*	* * * *	*[1]
1850	34	The State Prisoners Act, 1850	The whole
"	37	The Public Servants (Inquiries) Act, 1850	Ditto
1851	8	The Indian Tolls Act, 1851	Ditto
1853	2	The Landholders Public Charges and Duties Act, 1853	Ditto
"	6	The Rent Recovery Act, 1853	Ditto
1855	12	The Legal Representatives Suits Act, 1855	Ditto
"	13	The Indian Fatal Accidents Act, 1855	Ditto
"	24	The Penal Servitude Act, 1855	Ditto
"	37	Sonthal Parganas	Sections, 1, 2 and 3
1856	11	The European Deserters Act, 1856	The whole
"	15	The Hindu Widows Remarriage Act, 1856	Ditto
1857	10	Sonthal Parganas	Ditto
"	13	Opium	Ditto
1858	3	The State Prisoners Act, 1858	Ditto
"	31	Alluvion	Ditto
"	35	The Lunacy (District Courts) Act, 1858	Ditto
"	36	The Indian Lunatic Asylums Act, 1858	Ditto
1859	5	Ghatwali Lands, Bubbhum	Ditto
"	11	Sales of Land for Arrears of Revenue	Ditto
"	[2] 14	Summary Dispossession	Section 15

[1] The reference to Act 33 of 1850 (Ptnai Tenures), which was repealed by the Repealing and Amending Act, 1903 (1 of 1903), is omitted

[2] Section 15 of Act 14 of 1859 will be repealed by the Specific Relief Act, 1877 (1 of 1877) if that Act is declared in force in the Sonthal Parganas.

of 1872 ]

## SETTLEMENT REGULATION

(The Schedule)

ENACTMENTS IN FORCE IN THE SONTHAL PARGANAS—*contd*

1	2	3	4
Year	Number	Short title or subject	Whole or part

*Part II—Acts of the Governor General of India in Council—contd*

1860	9	The Employers and Workmen (Disputes) Act, 1860	The whole
"	45	The Indian Penal Code . . .	Ditto
1861	5	The Police Act, 1861 . . .	Ditto
1863	16	The Excise (Spirits) Act, 1863 . . .	Ditto
1864	3	The Foreigners Act, 1864 . . .	Ditto
"	6	The Whipping Act, 1864 . . . .	Ditto
"	15	The Indian Tolls Act, 1864	Ditto
1865	3	The Carriers Act, 1865 . . . .	Ditto
"	10	The Indian Succession Act, 1865 .	Ditto
1866	21	The Native Converts' Marriage Dissolution Act, 1866	Ditto
1867	25	The Press and Registration of Books Act, 1867	Ditto
1869	4	The Indian Divorce Act, 1869 . . . .	Ditto
"	5	The Indian Articles of War . . . .	Ditto
*	*	* * * * *	*[1]
1869	20	The Indian Volunteers Act, 1869	The whole
1870	7	The Court fees Act, 1870 . . . .	Ditto
"	20	The Court fees Act (1870) Amendment Act, 1870.	Ditto.
"	21	The Hindu Wills Act, 1870 . . . .	Ditto
"	23	The Indian Coinage Act, 1870 .	Ditto
"	27	The Indian Penal Code Amendment Act, 1870.	Ditto

[1] The reference to Act 15 of 1869 (Prisoners' Testimony), which was repealed by the Repealing and Amending Act, 1903 (1 of 1903), is omitted.

ENACTMENTS IN FORCE IN THE SONTHAL PARGANAS—*contd*

1	2	3	4
Year	Number	Short title or subject	Whole or part

*Part II—Acts of the Governor General of India in Council—contd*

1871	1	The Cattle trespass Act, 1871 . .	The whole
"	[1]5	The Prisoners Act, 1871 .	Ditto
"	23	The Pensions Act, 1871	Ditto
1872	1	The Indian Evidence Act, 1872	Ditto
"	3	The Special Marriage Act, 1872	Ditto
"	9	The Indian Contract Act, 1872	Ditto
"	15	The Indian Christian Marriage Act, 1872	Ditto
"	18	The Indian Evidence Act Amendment Act, 1872	Ditto
"	19	The Indian Penal Code Amendment Act, 1872 .	Ditto
1873	5	The Government Savings Banks Act, 1873 .	Ditto
"	10	The Indian Oaths Act, 1873 .	Ditto
1874	2	The Administrator General's Act, 1874 .	Ditto
"	3	The Married Women's Property Act, 1874	Ditto
"	9	The European Vagrancy Act, 1874 .	Ditto
1875	13	The Probate and Administration Act, 1875	Ditto
1877	[2] 2	<i>The Probate and Administration Act, 1877</i>	<i>Ditto</i>
"	3	The Indian Registration Act, 1877 .	Ditto
"	15	The Indian Limitation Act, 1877 . . .	Ditto
1878	1	The Opium Act, 1878 . .	Ditto
"	6	The Indian Treasure Trove Act, 1878	Ditto
"	7	The Indian Forest Act, 1878 .	Ditto

[1] Only section 15 of Act 5 of 1871 is now in force in the Sonthal Parganas, the rest of the Act having been repealed by the Prisoners Act, 1900 (3 of 1900).

[2] Act 2 of 1877 is repealed by the Probate and Administration Act, 1903 (8 of 1903), which has been declared in force in the Sonthal Parganas.

of 1872 ]

## SETTLEMENT REGULATION

*(The Schedule)*ENACTMENTS IN FORCE IN THE SONIHAL PARGANAS—*contd*

1	2	3	4
Year	Number	Short title or subject	Whole or part

*Part II—Acts of the Governor General of India in Council—contd*

1878	11	The Indian Arms Act, 1878	The whole
1879	3	The Destruction of Records Act, 1879	Ditto
"	11	The Local Authorities Loan Act, 1879	Ditto
"	12	The Registration and Limitation Acts Amendment Act, 1879	Sections 104 to 108
"	[1] 21	The Foreign Jurisdiction and Extradition Act, 1879	The whole
1880	[2] 8	Correction of a clerical error in the Limitation Act, 1877	Ditto
1881	5	The Probate and Administration Act, 1881	Ditto
	*	* * * * *	* [3]
1882	7	The Powers of Attorney Act, 1882	The whole
"	8	The Indian Penal Code Amendment Act, 1882.	Ditto
	*	* * * * *	* [3]
1882	12	The Indian Salt Act, 1882	The whole, except section 31
"	14	The Code of Civil Procedure	Sections 223 to 228
"	20	The Indian Paper Currency Act, 1882	The whole
1883	19	The Land Improvement Loans Act, 1883.	Ditto
"	21	The Indian Emigration Act, 1883.	Ditto
1884	4	The Indian Explosives Act, 1884.	Ditto
1885	8	The Bengal Tenancy Act, 1885.	Section 84
"	9	The Excise and Sea Customs Law Amendment Act, 1885.	Sections 3 and 4.

[1] Act 21 of 1879 has been repealed by the Indian Extradition Act, 1903 (15 of 1903), but the repeal does not take effect until the latter Act is declared in force under section 1 (3) thereof.

[2] Act 8 of 1880 was repealed by the Presidency Small Cause Courts Law Amendment Act 1888 (10 of 1888), before this Schedule was enacted.

[3] The references to Act 1 of 1882 (Assam Labour and Emigration) and 9 of 1882 (Prisoners), which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

ENACTMENTS IN FORCE IN THE SONTHAL PARGANAS—*contd*

1	2	3	4
Year	Number	Short title or subject	Whole or part
<i>Part II—Acts of the Governor General of India in Council—contd</i>			
1885	13	The Indian Telegraph Act, 1885	The whole
,	15	The Local Authorities Loan Act (1879) Amendment Act, 1885	Ditto
,	18	The Land Acquisition (Mines) Act, 1885	Ditto
1886	2	The Indian Income-tax Act, 1886	Ditto
,	4	The Indian Contract Act (1872) Amendment Act, 1886	Section 1
,	6	The Births, Deaths and Marriages Registration Act, 1886	The whole
,	7	The Indian Registration Act, 1886	Ditto
,	10	The Indian Criminal Law Amendment Act, 1886	Sections 21 to 25 [1]
,	18	The Indian Lunatic Asylums Act (1858) Amendment Act, 1886	The whole, except section 3
1887	3	The Indian Evidence Act (1872) Amendment Act, 1887	The whole
,	20	The Wild Birds Protection Act, 1887	Ditto
	*	* * * *	* [2]
1888	7	The Civil Procedure Code Amendment Act, 1888	So much as relates to Acts III and XV of 1877
1889	6	The Probate and Administration Act, 1889	The whole
,	7	The Succession Certificates Act, 1889	Ditto
,	20	The Indian Lunatic Asylums Act (1858) Amendment Act, 1889	Ditto
1890	1	The Revenue Recovery Act, 1890	Ditto
,	2	The Probate and Administration Act, 1890	Sections 9 to 16

[1] Section 25 of Act 10 of 1886 is repealed in the Sonthal Parganas by the Prisoners Act 1900 (3 of 1900).

[2] The reference to Act 5 of 1882 (Inventions and Designs), which was repealed by the Repealing and Amending Act 1908 (1 of 1908), is omitted.



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## SETTLEMENT REGULATION

*(The Schedule)*ENACTMENTS IN FORCE IN THE SONTHAL PARGANAS—*contd*

1	2	3	4
Year	Number	Short title or subject	Whole or part
<i>Part II—Acts of the Governor General of India in Council—contd</i>			
1890	5	The Forest Act, 1890	Section 1, sub section (1), section 2 and section 4
"	6	The Charitable Endowments Act, 1890	The whole
"	8	The Guardians and Wards Act, 1890	Ditto
"	9	The Indian Railways Act, 1890	Ditto
"	10	The Press and Registration of Books Act (1867) Amendment Act, 1890	Ditto
"	11	The Prevention of Cruelty to Animals Act, 1890	Ditto
"	13	The Excise (Malt Liquors) Act, 1890	Sections 1, 6, 7 and 8.
"	16	The Births, Deaths and Marriages Registration Act (1886) Amendment Act, 1890	The whole
"	18	The Indian Emigration Act (1883) Amendment Act, 1890	Ditto
1891	1	The Cattle trespass Act (1871) Amendment Act, 1891	The whole, except sections 10, 11 and 13
"	2	The Indian Christian Marriage Act (1872) Amendment Act, 1891	The whole
"	3	The Indian Evidence Act (1872) Amendment Act, 1891	Ditto.
"	10	The Indian Criminal Law Amendment Act, 1891	Ditto
"	12	The Repealing and Amending Act, 1891	Ditto
"	18	The Bankers' Books Evidence Act, 1891	Ditto
1892	2	The Marriages' Validation Act, 1892	Ditto
"	4	The Court of Wards Act (Bengal) Amendment Act, 1892.	Ditto
"	5	The Bengal Military Police Act, 1892	Ditto

ENACTMENTS IN FORCE IN THE SONTHAL PARGANAS—*contd*

1	2	3	4
Year	Number	Short title or subject	Whole or part

*Part II—Acts of the Governor General of India in Council—contd*

1892	6	The Indian Limitation Act and Civil Procedure Code Amendment Act, 1892	The whole
"	10	The Government Management of Private Estates Act, 1892	Ditto
1893	1	The Bankers Books Evidence Act, 1893	Ditto
	*	* * * * *	* [1]
1894	1	The Land Acquisition Act, 1894	The whole
"	3	The Indian Criminal Law Amendment Act, 1894	Ditto
	*	* * * * *	* [1]
1894	8	The Indian Tariff Act, 1894	The whole
"	9	The Prisons Act, 1894	Ditto
1895	3	The Indian Criminal Law Amendment Act 1895	Ditto
"	8	The Police Act (1861) Amendment Act, 1895	Ditto
1896	1	The Indian Emigration Act (1883) Amendment Act, 1896	Ditto
"	3	The Indian Tariff Act (1894) Amendment Act, 1896	Ditto
"	5[2]	The Foreign Jurisdiction and Extradition Act (1879) Amendment Act, 1896	Ditto
"	6	The Indian Penal Code Amendment Act, 1896	Ditto
"	9	The Indian Railways Act (1890) Amendment Act, 1896	Ditto
"	10	The Indian Volunteers Act Amendment Act, 1896.	Ditto

[1] The references to Acts 7 of 1893 (Inland Emigration) and 7 of 1894 (Prisoners), which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[2] Act 5 of 1896 has been repealed by the Indian Extradition Act, 1903 (15 of 1903), but the repeal does not take effect until the latter Act is declared in force under section 1 (3) thereof.

of 1872.]

## SETTLEMENT REGULATION

*(The Schedule)*ENACTMENTS IN FORCE IN THE SONTHAL PARGANAS—*contd.*

1	2	3	4
Year	Number	Short title or subject	Whole or part

*Part II—Acts of the Governon General of India in Council—concl'd*

1897	3	The Epidemic Diseases Act, 1897 .	The whole
„	8	The Reformatory Schools Act 1897	Ditto
„	10	The General Clauses Act, 1897	Ditto
1898	3	The Lepers Act, 1898 .	Ditto
„	4	The Indian Penal Code Amendment Act, 1898	Ditto
„	5	The Code of Criminal Procedure, 1898	Ditto
„	6	The Indian Post Office Act, 1898	Ditto
„	9	The Live stock Importation Act, 1898	Ditto
1899	2	The Indian Stamp Act, 1899 .	Ditto
„	4	The Government Buildings Act, 1899 .	Ditto
„	5	The Indian Evidence Act, 1899 .	Ditto
„	8	The Indian Petroleum Act, 1899 .	So much as relates to dangerous petroleum and the importation of petroleum.
„	10	The Carriers Act, 1899 .	The whole
„	11	The Court-fees Amendment Act, 1899 .	Ditto
„	12	The Currency Notes Forgery Act, 1899 .	Ditto
„	13	The Glanders and Farcy Act, 1899	Ditto
„	14	The Indian Tariff Amendment Act, 1899 .	Ditto

*Part III—Acts of the Lieutenant-Governor of Bengal in Council*

1862	3	Sales of Land for Arrears of Revenue (amending Act 11 of 1859)	The whole
„	7	Resumption of Revenue-free Lands . . .	Ditto
„	8	Zamindari daks . . . . .	Ditto

ENACTMENTS IN FORCE IN THE SONTHAL PARGANAS—*contd*

1	2	3	4
Year	Number	Short title or subject	Whole or part

*Part III.—Acts of the Lieutenant-Governor of Bengal in Council—contd*

1864	4	Alteration of Limits of Districts (amending Act 21 of 1836)	The whole
"	7	Salt . . . .	Ditto
1865	4	Inoculation .	Ditto
"	8	Sale of Under tenures	Ditto
1866	3	Witnesses before Legislative Council	Ditto
1867	2	Gambling .	Ditto
1868	4	Assessment of new Lands (amending Act 9 of 1847)	Ditto
"	7	Recovery of Arrears of Land Revenue	Ditto
1869	7	Police .	Ditto
1871	2	Sales of Land for Arrears of Revenue (amending Bengal Act 7 of 1868)	Ditto
"	4	The Public Lodging houses Act, 1871	Ditto
1873	4	Registration of Births and Deaths .	Ditto
1876	7	The Land Registration Act, 1876	Ditto
1878	5	Land Registration (amending Bengal Act 7 of 1876)	Ditto
"	7	The Bengal Excise Act, 1878 . .	Ditto
1879	2	Lodging-houses . . . .	Ditto.
"	3	Steam-boilers . . . .	Ditto
"	9	The Court of Wards Act, 1879	Ditto
1880	6	The Bengal Drainage Act, 1880 . .	Ditto
1881	3	Court of Wards (amending Bengal Act 9 of 1879).	Ditto
"	4	The Bengal Excise Act Amendment Act, 1881.	Ditto.

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ENACTMENTS IN FORCE IN THE SONTHAL PARGANAS—concl'd

1	2	3	4
Year	No	Short title or subject	Whole or part

*Part III—Acts of the Lieutenant-Governor of Bengal in Council—concl'd*

1883	1	Excise (amending Bengal Act 7 of 1878)	The whole
1884	1	Puri Lodging houses (amending Bengal Act 4 of 1871)	Ditto
„	3	The Bengal Municipal Act, 1884	Ditto
1885	1	The Bengal Ferries Act, 1885	Ditto
1886	3	Municipalities (amending Bengal Act 3 of 1884)	Ditto
*	*	* * * *	*[1]
1894	4	Municipalities (amending Bengal Act 3 of 1884)	The whole
*	*	* * * *	*[1]
1895	1	The Public Demands Recovery Act, 1895	The whole
*	*	* * * *	*[1]
1896	2	Municipalities (amending Bengal Act 3 of 1884)	The whole
1897	5	The Estates Partition Act, 1897	Ditto
1899	1	The Bengal General Clauses Act, 1899	Ditto

*Part IV—Regulations made under the Government of India Act, 1870*

1872	3	The Sonthal Parganas Settlement Regulation	The whole
1886	2	The Sonthal Parganas Rent Regulation, 1886	Ditto
*	*	* * * *	*[2]
1893	5	The Sonthal Parganas Justice Regulation, 1893	The whole.

[1] The reference to Bengal Acts 1 of 1889 (Inland Emigrants), 6 of 1894 (Municipalities) and 5 of 1895 (Lepers), which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted

[2] The reference to Regulation 3 of 1886 (Sonthal Parganas Laws), which was repealed by the Repealing and Amending Act, 1903 (1 of 1903), is omitted

## THE SONTHAL PARGANAS RENT REGULATION, 1886

(REGULATION 2 OF 1886)

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# THE SONTHAL PARGANAS RENT REGULATION, 1886

( REGULATION 2 OF 1886 ) [1]

[11th August, 1886]

## A Regulation for the Determination of Rents in the Sonthal Parganas

\* \* \* \* \*

WHEREAS it is expedient to provide that rents within the Sonthal Parganas shall not be changed except by the Settlement-officer in the course of settlement-proceedings under the Sonthal Parganas Settlement Regulation [3] or by the Deputy Commissioner in accordance with the procedure prescribed in this Regulation , 3 of 1872

And whereas it is also expedient to amend the Sonthal Parganas Settlement Regulation [3] in manner hereinafter appearing , 3 of 1872

It is hereby enacted as follows :—

### CHAPTER I

#### PRELIMINARY

**Short title**      1 (1) This Regulation may be called the Sonthal Parganas Rent Regulation, 1886

(2) [Commencement]    Rep by the Repealing and Amending Act, 1903 (1 of 1903)

**Construction**      (3) It shall be read with, and be taken as supplementary to, the Sonthal Parganas Settlement Regulation [3]

3 of 1872

**Definitions**      2. In this Regulation, unless there is something repugnant in the subject or context,—

(1) “Commissioner” means the Commissioner of the Bhagalpur Division , and

[1] LOCAL EXTENT.—This Regulation extends only to the Sonthal Parganas, as described in the Schedule printed at the end of the Sonthal Parganas Act, 1855 (37 of 1855), *ante*, p. 291—see section 1 (3), of the Regulation. The Regulation is formally included in the Schedule of laws in force in these Parganas,—see *ante*, p. 313

REPRINT.—This Regulation is reprinted in the Sonthal Parganas Manual, 1898, pp. 39 to 45  
RULES.—For rules made under section 30, see the Bengal Local Statutory Rules and Orders, 1903, Vol. II, pp. 102 to 104

[2] The portion of the preamble which was repealed by the Repealing and Amending Act, 1903 (1 of 1903), is omitted.

[3] Printed *ante*, p. 293.



of 1886.]

RENT REGULATION, 1886

(Chapter II — Rent — Secs 3-6)

(2) "Deputy Commissioner" means the Deputy Commissioner of the Sonthal Parganas and includes any person invested by the Lieutenant-Governor with the powers of a Deputy Commissioner for all or any of the purposes of this Regulation

## CHAPTER II

## RENT

*Rule of general application throughout the Sonthal Parganas.*

3 of 1872 3. Notwithstanding any agreement to the contrary, the rent of a headman or of a raiyat shall not be changed, except by the Settlement-officer in the course of settlement-proceedings under the Sonthal Parganas Settlement Regulation, [1] or by the Deputy Commissioner in accordance with the procedure prescribed in this Regulation

Mode of  
changing  
rents

*Adjustment of Rents under the Settlement Regulation*

3 of 1872 4. In section 9 of the Sonthal Parganas Settlement Regulation, [1] after the words "The Lieutenant-Governor may" the words "from time to time" shall be inserted

5. [Repeal of section 19 of Regulation 3 of 1872] Rep by the Repealing and Amending Act, 1903 (1 of 1903).

Power to  
order settle-  
ment exer-  
ciseable from  
time to time  
under Regu-  
lation 3 of  
1872

3 of 1872 6. Notwithstanding any agreement to the contrary, rents of headmen and raiyats, adjusted and recorded by the Settlement-officer in the course of a settlement under the Sonthal Parganas Settlement Regulation, [1] shall remain unchanged—

Term for  
which rent  
adjusted un-  
der Regula-  
tion 3 of  
1872 remains  
fixed

(a) in the case of a settlement made before this Regulation comes into force, for seven years from the time of the adjustment and record, or for such longer period (if any) as may have been specified in the record of the settlement in this behalf,

(b) in the case of a settlement made after this Regulation comes into force, for fifteen years from the time of the adjustment and record,

(c) in the case of a settlement made either before or after this Regulation comes into force, until within the period mentioned in clause (a) or clause (b), as the case may be, of this section the rents are changed in the course of a fresh settlement

*Determination of Rents under this Regulation in Settled Tracts*

Power to  
apply for  
preparation of  
table of rates  
of rent

7 Subject to the provisions of sections 6 and 18—

- (a) the zamindar or other proprietor of a village which has been settled under the Sonthal Parganas Settlement Regulation, [1] or
- (b) the mángbī or other headman of any such village, or
- (c) any number, not being less than one-half, of the cultivating raiyats of any such village,

3 of 1872

may, if dissatisfied with the rents payable in the village, apply to the Deputy Commissioner to prepare a table-of-rates of rent for the village and to determine the rents on the basis thereof

Contents of  
application.

8. Every application under section 7 shall set forth precisely the grounds upon which the existing rents are sought to be changed

Power for De  
puty Com  
missioner to  
reject appli  
cation

9. If the Deputy Commissioner considers that any application under section 7 is not admissible under that section, or is of opinion, on a consideration of the grounds set forth in the application or after such further inquiry as he deems necessary, that the rents ought not to be changed, he shall reject the application.

Submission of  
application by  
Deputy Com  
missioner to  
Commissioner

10. If the Deputy Commissioner finds that the application is admissible under section 7, and is of opinion, on a consideration of the grounds set forth in the application, or after such further inquiry as he deems necessary, that the rents ought to be changed, he shall submit the application with his recommendations for the orders of the Commissioner

Power for  
Commissioner  
to direct pre  
paration of  
table-of rates  
and rent roll  
Preparation  
of table-of  
rates.

11. The Commissioner may in his discretion either reject the application or direct the Deputy Commissioner to prepare for his approval a table-of-rates of rent for the village and a rent-roll based thereon

12. In preparing the table-of-rates the Deputy Commissioner shall, subject to such rules, if any, as the Lieutenant-Governor may from time to time prescribe, ascertain and record such rates for the different classes of land as seem to him, due regard being had to existing rents, to be fair and equitable

Preparation  
of rent-roll.

13. (1) In preparing the rent-roll on the basis of the table-of-rates the Deputy Commissioner shall have regard to such circumstances as, in adjusting rents under the Sonthal Parganas Settlement Regulation, [1] the Settlement-officer would have regard to.

3 of 1872

(2) When the Deputy Commissioner has prepared the rent-roll, he shall determine the rent payable by the village-headman and specify that rent also in the rent-roll.

of 1886 ]

RENT REGULATION 1886

(Chapter II — Rent — Secs 14-20)

14 When the table-of-rates and rent-roll have been approved by the Commissioner, the Deputy Commissioner shall cause them to be locally published in such manner as the Lieutenant-Governor may from time to time prescribe

Preliminary publication of table and roll

15 (1) When the table-of-rates and rent-roll have been published under section 14, any person interested may present a petition in writing to the Deputy Commissioner specifying any objection which he may desire to make with respect to the table or roll or both

Disposal of objections to table or roll

(2) The Deputy Commissioner shall consider the objection and, after such inquiry as he may deem necessary, record an order with respect thereto, either dismissing the objection or proposing for the approval of the Commissioner such amendment of the table or roll or both as may seem to be proper.

16. When an amendment of the table-of-rates or of the rent-roll or of both is approved by the Commissioner on a proposal under section 15, sub-section (2), or is ordered by the Deputy Commissioner of the Sonthal Paiganas or by the Commissioner under section 26, or by the Lieutenant-Governor under section 27, the Deputy Commissioner shall cause the table or roll or both to be amended in conformity with the directions of the authority approving or ordering the amendment

Amendment of table or roll

17 After the expiration of a year from the date of the preliminary publication under section 14, the table-of-rates and rent-roll, with such amendments, if any, as have been made therein under section 16, shall be locally published in such manner as the Lieutenant Governor may from time to time prescribe

Final publication of table and roll.

18. The rates and rents specified in a table and roll finally published under section 17 shall, subject to any order under section 26 or section 27, remain unchanged for a period of fifteen years from the date of the publication under that section, and thereafter until a new table-of-rates and rent-roll have been published under section 17, or, if before the expiration of the period of fifteen years or before a new table and roll have been published the rents are adjusted and recorded under the Sonthal Paiganas Settlement Regulation, [1] then until the date of that adjustment and record.

Continuance of table and roll

19. The rents specified in a rent-roll published under section 17 shall, notwithstanding any agreement to the contrary, take effect from such date as the Deputy Commissioner may appoint.

Commencement of operation of roll

*Determination of Rent under this Regulation in Unsettled Tracts*

20. (1) An application may at any time be made to the Deputy

Application of sections 2

to 19 to un  
settled lands

Commissioner for the preparation of a table-of-rates, and of a rent-roll based thereon, for lands which have not been settled under the Sonthal Parganas Settlement Regulation [1]

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(2) In the case of an application under sub section (1), the rules prescribed in sections 7 to 19 shall be subject to the following modifications, namely —

- (a) any less number than one-half of the raiyats may make the application,
- (b) if the Deputy Commissioner is of opinion that the rents ought to be changed, he may prepare and publish the table-of-rates and rent-roll on his own authority and without reference to the Commissioner,
- (c) the Deputy Commissioner may, on consideration of an objection, amend the table or roll or both on his own authority and without reference to the Commissioner, and
- (d) the table and roll, with such amendments, if any, as may have been made therein, may be finally published after the expiration of one month from the date of the preliminary publication

#### *Supplemental Provisions*

Employment  
of Subordin-  
ate officers to  
prepare table  
of rates and  
rent-rolls

21. In the preparation of table-of-rates and rent-rolls under this Regulation the Deputy Commissioner may employ any Deputy Collector, Assistant Collector or Sub Deputy Collector.

Cost of pro-  
ceedings.

22. (1) The costs of all proceedings connected with an application under section 7 or section 20 of this Regulation, including the pay of all establishments employed under the orders of the Deputy Commissioner, and such proportion of the salary of any gazetted officer employed as the Commissioner may direct, shall be recoverable as a public demand \* \* \* [2].

(2) Such costs shall ordinarily be recoverable from the person making the application, but the Deputy Commissioner may in any case —

- (a) direct that the costs shall be distributed among, and be recoverable from, all or any of the parties interested in the preparation of the table-of-rates and rent-roll, in such manner as may seem to him equitable, and

[1] Printed ante, p. 293.

[2] The words and figures "under Bengal Act 7 of 1890", which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted. See now the Public Demands Recovery Act, 1895 (Ben. Act 1 of 1895), in Vol. IV of this Code.

of 1886 ]

## RENT REGULATION, 1886

(Chapter II.—Rent —Secs 23, 24)

(b) require the deposit, by any person interested, of such proportion of the costs of the proceedings as may seem to him equitable, and suspend the proceedings pending the making of the deposit.

(3) When the Deputy Commissioner directs that any costs shall be recoverable from ruyats under this section, he may further direct that they shall be recoverable through the headman, and may fix a date after which they shall be recoverable from the headman personally if they have not before that date been paid to the Deputy Commissioner or as the Deputy Commissioner directs.

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23 When any waste of forest, which has been excluded from a village under section 15 of the Sonthal Parganas Settlement Regulation, [1] is subsequently settled, the Settlement-officer may, if he thinks fit, direct its inclusion within any village and declare that the table-of-rates (if any) for the time being in force under this Regulation for that village shall be applicable thereto

Application by Settlement officer of table of-rates to waste included by him in a village

*New Tenancies.*

3 of 1872

24 (1) When, after rents have been recorded under the Sonthal Parganas Settlement Regulation, [1] or a rent-roll has been prepared under section 13 of this Regulation, for a village in which a settlement has been made under the former Regulation, a tenancy comes into existence in the village which, if it had been in existence in the village when the record or the rent-roll was prepared, would have been included therein, the rent payable in respect of the tenancy shall be regulated as follows —

Regulation of rents of new tenancies

(1) if the tenancy is of reclaimed waste or forest—

(a) the rent for the first seven years after the reclamation shall not exceed half the rent which the Settlement-officer has admitted as fair and equitable in the case of land of similar quality in the village, or, as the case may be, which is payable for such land under the table-of-rates on which the Deputy Commissioner based the rent-roll of the village, and

(b) the rent after the first seven years shall not exceed the full rent computed as aforesaid ;

(ii) if the tenancy is of an abandoned, surrendered or forfeited holding the rent shall not exceed the rent which the Settlement-officer has or would have fixed for the holding, or, as the case may be, which is payable under the table-of-rates for such land as is comprised in the holding.

## THE SONTHAL PARGANAS RENT REGULATION, 1886 [Reg 2 of 1886]

(Chapter II — Rent — Chapter III — Miscellaneous — Secs 25-29)

(2) Rent payable under this section may be changed on the final publication of a new rent-roll of the village under this Regulation or on an adjustment and record of rents under the Sonthal Parganas Settlement Regulation [1]

3 of 1872

(3) If any dispute arises as to the rent payable in respect of a tenancy under this section, it shall, on application for that purpose by either of the disputing parties to the Deputy Commissioner, be determined by him.

*Protection of Raiyats from Ejectment*

Exemption of  
rai-yats from  
liability to  
ejectment  
except by  
order of  
Deputy Com-  
missioner  
Appeal

25. A raiyat, whether recorded as possessing a right of occupancy or not shall not be ejected from his holding otherwise than in execution of an order of the Deputy Commissioner

*Appeal and Revision*

26 An appeal from an order of the Deputy Commissioner under sections 9, 15, 20, 22, 24 or 25, or from an order of the Settlement-officer under section 23, shall, if presented within three months from the date of the order appealed against, lie—

(a) when the officer making the order is a person invested by the Lieutenant-Governor with the powers of a Deputy Commissioner for all or any of the purposes of this Regulation—to the Deputy Commissioner of the Sonthal Parganas,

(b) when the Deputy Commissioner making the order is the Deputy Commissioner of the Sonthal Parganas, or the order is made by a Settlement-officer—to the Commissioner.

Revision

27. All proceedings of the Deputy Commissioner, Settlement-officer or Commissioner under this Regulation shall be subject to control, revision and alteration by the Lieutenant-Governor.

## CHAPTER III.

## MISCELLANEOUS.

Amendment  
of section 25  
of Regulation  
3 of 1872.

28. For the second sentence of the first clause of section 25 of the Sonthal Parganas Settlement Regulation, [1] the following sentence shall be substituted.—

3 of 1872

[Printed *ante*, p. 300.]

Power of  
Lieutenant-  
Governor to

29. Whenever a table-of-rates and rent-roll are prepared for a village under this Regulation, the Lieutenant-Governor may, by special order,

[1] Printed *ante*, p. 298.

[Reg 2 of 1886.] THE SONTHAL PARGANAS RENT REGULATION, 1886

(Chapter III—Miscellaneous—Secs 30, 31)

[Reg 5 of 1893] THE SONTHAL PARGANAS JUSTICE REGULATION, 1893

empower the officer making the table-of-rates and rent-roll to amend the whole or any part of the record-of-rights of the village

order amend  
ment of  
record of  
rights when  
table of rates  
and rent roll  
are prepared  
Power to  
make rules

30 (1) The Lieutenant-Governor may, from time to time, make rules consistent with this Regulation for the guidance of officers in all matters connected with its enforcement

(2) All such rules shall be published in the local official Gazette, and shall thereupon have the force of law

31. The Lieutenant-Governor may, from time to time, by notification in the local official Gazette, exclude any land from the operation of this Regulation and of such portions of the Sonthal Parganas Settlement Regulation [1] as relate to the adjustment and record of rents

Power to  
exclude land  
from opera  
tion of  
provisions  
regarding  
determination  
and adjust  
ment of rent

3 of 1872

## THE SONTHAL PARGANAS JUSTICE REGULATION, 1893

(REGULATION 5 OF 1893)

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- 2 [*Repealed*].
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[1] Printed *ante*, p 293.

[2] This Table has been newly added

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of 1893 ]

JUSTICE REGULATION, 1893

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## THE SONTHAL PARGANAS JUSTICE REGULATION, 1893

(REGULATION 5 OF 1893) [1]

[29th March, 1893]

A Regulation to make further provision for the administration  
of Criminal and Civil Justice in the Sonthal Parganas

WHEREAS it is expedient to make further provision for the administration of criminal and civil justice in the Sonthal Parganas, It is hereby enacted as follows —

### CHAPTER I

#### PRELIMINARY.

1 (1) This Regulation may be called the Sonthal Parganas Justice Regulation, 1893

Title, extent  
and com-  
mencement

(2) It extends to the whole of the Sonthal Parganas as described in the Schedule [2] to Act 10 of 1857 and in the Notification [2] of the Governor General in Council, No 478, dated the 12th March, 1872, and

(3) It shall come into force on such day [3], within three months from the time at which it may receive the Governor General's assent, as the Local Government may, by notification in the official Gazette, appoint in this behalf.

2 [Repeal of (1) s. 4 and 5 and portion of s. 3 of Act 37 of 1855, (2) s. 4 of Reg 3 of 1872, and (3) rule 42 of the Civil Procedure rules of August, 1873] Rep. by the Repealing and Amending Act, 1903 (1 of 1903)

[1] LOCAL EXTENT — This Regulation extends only to the Sonthal Parganas, as described in the Schedule printed at the end of the Sonthal Parganas Act, 1855 (37 of 1855), *ante*, p. 291—*see* section 1 (2) of the Regulation. The Regulation is formally included in the Schedule of Laws in force in those Parganas—*see ante*, p. 313

REPRINTS — This Regulation has been reprinted (by the Legislative Department of the Government of India) as modified by subsequent legislation up to the 1st October, 1899

The Regulation is also reprinted in the Sonthal Parganas Manual, 1893, pp. 48 to 53

[2] The Schedule is printed *ante*, p. 291, and the Notification is published in the Gazette of India, 1872, Pt. I, p. 240. The descriptions in the Schedule and the Notification are identical

[3] The 10th June, 1893,—*see* Calcutta Gazette 1893, Pt. I, p. 506

(Chapter I—Preliminary —Chapter II—Criminal Justice —Secs 3, 4)

## Definitions

3 In this Regulation—

(1) “Commissioner” means the Commissioner of the Bhagalpur Division, and

(2) “Deputy Commissioner” means the Deputy Commissioner of the Sonthal Parganas

## CHAPTER II

## CRIMINAL JUSTICE

Application  
of the Code  
of Criminal  
Procedure,  
1898

High Court

[1] 4 The Code of Criminal Procedure, 1898,[2] shall have effect in the 5 of 1898 Sonthal Parganas, subject to the following modifications, namely —

I —“ High Court ” shall mean,—

(i) in reference to proceedings against European British subjects or persons jointly charged with European British subjects, the High Court of Judicature at Fort William in Bengal, and

(ii) in reference to proceedings against other persons,—

(a) in cases tried by the Court of Session and in appeals under section 417 from original or appellate orders of acquittal, the High Court of Judicature at Fort William in Bengal, and

(b) in other cases, the Commissioner

Court of Ses-  
sion

II —The Sonthal Parganas shall be a sessions division, the Court of the Sessions Judge of Burdham shall be the Court of the Session for the sessions division, the Sessions Judge of Burdham shall be the Judge of the Court of Session and the Court of Session shall hold its sitting within the Sonthal Parganas

Appeals from  
subordinate  
Magistrates

III —Any person convicted, or sentenced under section 349, by any Magistrate other than the Deputy Commissioner, may appeal to the Deputy Commissioner

Appeal from  
Deputy Com-  
missioner

IV —Any person convicted, or sentenced under section 349, by the Deputy Commissioner, may appeal to the Commissioner as High Court

Certain  
powers not to  
be exercised  
by Court of  
Session.

V.—The Court of Session shall not exercise any of the powers conferred by sections 435, 436, 437 and 438

[1] This section was substituted for the original section 4 by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899) s. 2, *post*, p. 333.

[2] Printed in the General Acts, 1891-98, Ed. 1899, p. 380.

of 1893 ]

JUSTICE REGULATION, 1898

*(Chapter, III — Civil Justice — Secs 5, 6)*

VI — When an appeal has been preferred, the Appellate Court may enhance any punishment which has been awarded by the Lower Court

Power of Appellate Court to enhance sentence

Provided that, if the appeal is from the sentence of a Magistrate other than the Deputy Commissioner, the Appellate Court shall not inflict a greater punishment than might have been inflicted by a Magistrate of the first class

VII — Notwithstanding anything in the Code, a finding, sentence or order shall not be reversed or altered, on appeal or in revision, on account of any irregularity of procedure, unless the irregularity has occasioned, or is likely to occasion, a failure of justice

Findings, etc., not to be reversed for mere irregularity of procedure

VIII — Rules under section 554, sub-section (2), clause (c), may regulate the following among other matters, namely —

Rules

- (a) the fees to be paid for processes, and
- (b) the fees to be paid for copies and the inspection of records

### CHAPTER III

#### CIVIL JUSTICE

5. Besides the Courts of Settlement officers there shall be two classes of Civil Courts in the Sonthal Parganas, namely —

Classes of Courts in the Sonthal Parganas

- (1) Courts established under the Bengal, [1] [United Provinces] and Assam Civil Courts Act, 1887, [2] and
- (2) Courts of officers appointed by the Lieutenant-Governor of Bengal, under section 2 of Act 37 of 1855 [3]

12 of 1887

6. The rest of this Chapter is divided into two parts, as follows —

PART I.—*Courts established under the Bengal, [1] [United Provinces] and Assam Civil Courts Act, 1887 [2]*

Division of remainder of Chapter into Parts

12 of 1887.

PART II.—*Courts of officers appointed under section 2 of Act 37 of 1855 [3]*

[1] The words "United Provinces" have been substituted for the words "North-Western Provinces"—see the United Provinces (Designation) Act, 1902 (7 of 1902), s 2, in General Acts, 1899 03, Ed 1904, p 201

[2] Printed *ante* p 199

[3] The Sonthal Parganas Act, 1855 It is printed *ante*, p. 289

(Chapter III—Civil Justice—Part I—Courts established under the Bengal and Assam Civil Courts Act, 1887—Secs 7-11)

## PART I

*Courts established under the Bengal, [1] [United Provinces] and Assam Civil Courts Act, 1887*

Grades of  
Courts es-  
tablished  
under Act  
12, 1887

7. The Courts established under the Bengal, [1] [United Provinces] and Assam Civil Courts Act, 1887,[2] shall in the Sonthal Parganas be of two 12 of 1887  
grades, namely—

- (1) the Court of the District Judge, and
- (2) the Courts of Subordinate Judges.

Appointment  
of District  
Judge and  
Subordinate  
Judges

8 The Deputy Commissioner shall be the District Judge, and the Local Government may appoint any Sub-divisional Officer to be a Subordinate Judge

Extent of  
original  
jurisdiction  
of District  
Judge and  
Subordinate  
Judges.

9 The jurisdiction of the District Judge or a Subordinate Judge extends subject to the provisions of section 15 of the Code of Civil Procedure, [3] to 14 of 1882  
suits of which the value exceeds one thousand rupees and which are not excluded from his cognizance by the Sonthal Parganas Settlement Regulation [4] or by any other law for the time being in force 3 of 1872

Provided that such jurisdiction shall not extend to any suit for money in which the amount claimed, exclusive of interest, does not exceed five hundred rupees

Procedure in  
original suits,  
and appeals  
from decrees  
and orders  
thereon

10 The trial of such suits shall be regulated by the Code of Civil Procedure [3] as for the time being in force in the Bhagalpur District, and the 14 of 1882  
course of appeal from decrees and orders in such suits shall, where an appeal is allowed by law, be that prescribed in section 20, sub-section (1), and section 21, sub-section (1), of the Bengal, [1] [United Provinces] and Assam Civil 12 of 1887  
Courts Act, 1887,[2] and in section 534 of the Code of Civil Procedure,[3] the 14 of 1882  
expression "High Court" in the said sections being construed to mean the High Court of Judicature at Fort William in Bengal

Limitation of  
the applica-  
tion of Act  
12, 1887.

11 Nothing in sections 3 to 9 (both inclusive), 12, 18, 19, 22 to 25 (both inclusive), 27 to 36 (both inclusive) and 40 of the Bengal, [1] [United Provinces] and Assam Civil Courts Act 1887, [2] shall apply to a Court 12 of 1887.  
established under that Act in the Sonthal Parganas.

[1] The words "United Provinces" have been substituted for the words "North Western Provinces"—see the United Provinces (Designation) Act, 1902 (7 of 1902), s 2, in General Acts, 1899-02, Ed. 1904, p. 291

[2] Printed *ante*, p. 199

[3] Printed in the General Acts, 1882-84, Ed. 1888, p. 262.

[4] Printed *ante*, p. 293.

of 1893 ]

## JUSTICE REGULATION, 1893

(Chapter III—Civil Justice—Part II—Courts of officers appointed under section 2 of Act 37 of 1855—Secs 12-15)

## PART II.

*Courts of Officers appointed under section 2 of Act 37 of 1855* [1]

12 The Courts of officers appointed by the Lieutenant-Governor of Bengal under section 2 of Act 37 of 1855 [1] shall be of four grades, namely —

Grades of Courts of officers appointed under Act 37, 1855, s 2

- (1) the Court of the Commissioner,
- (2) the Court of the Deputy Commissioner,
- (3) the Courts of Sub-divisional Officers, and
- (4) the Courts of Deputy Collectors not in charge of a sub-division, and Sub-Deputy Collectors

13 The Local Government may fix and vary the number of Courts of Sub-divisional Officers and of Deputy Collectors not in charge of a sub-division and Sub-Deputy Collectors, and the local limits [2] of the jurisdiction of those Courts

Determination of number and local jurisdiction of inferior Courts

14 Except as otherwise provided by any other enactment for the time being in force, jurisdiction with respect to suits which are not cognizable either by a Court established in the Sonthal Parganas under the Bengal, [3][United Provinces] and Assam Civil Courts Act, 1887, [4] or by a Settlement-officer under the Sonthal Parganas Settlement Regulation [5] shall be had,—

Original jurisdiction of Courts

12 of 1887

3 of 1872

- (a) up to the value of one hundred rupees or such other value not exceeding five hundred rupees as the Local Government may, by notification [6] in the official Gazette, prescribe, by the Court of a Deputy Collector not in charge of a sub-division, or Sub-Deputy Collector, and

- (b) without limit as regards the value, by the Court of a Sub-divisional Officer or the Court of the Deputy Commissioner.

15. (1) Subject to the provisions of the first proviso to section 2 of Act 37 of 1855 [1] and of section 10 of this Regulation with respect to the jurisdiction of the High Court of Judicature at Fort William in Bengal in relation to suits cognizable by Courts established under the Bengal, [3] [United Provinces] and Assam Civil Courts Act, 1887, [4] and subject also

12 of 1887.

Court of Commissioner to be High Court, and Court of Deputy Commissioner to be

[1] The Sonthal Parganas Act, 1855. It is printed *ante*, p. 289

[2] For an order under s 13, see the Sonthal Parganas Manual, 1898 p 59

[3] The words "United Provinces" have been substituted for the words "North Western Provinces"—see the United Provinces (Designation) Act, 1902 (7 of 1902), s 2, in General Acts, 1899 03, Ed 1904 p 201

[4] Printed *ante*, p 199

[5] Printed *ante*, p 293

[6] See Notification No. 4156 J, dated the 29th August, 1893, in the Sonthal Parganas Manual, 1898, p. 59

(Chapter III—Civil Justice—Part II—Courts of officers appointed under section 2 of Act 37 of 1855—Secs 16, 17)

District  
Court

to the provisions of sub-section (3), and of any other enactment for the time being in force, the Court of the Commissioner shall, for the purposes of all enactments relating to civil jurisdiction for the time being in force, be deemed to be the High Court for the Sonthal Parganas

(2) Subject to the provisions of the same proviso with respect to the trial and determination of suits of value exceeding one thousand rupees which are within the cognizance of a Court established in the Sonthal Parganas under the Bengal,[1] [United Provinces] and Assam Civil Courts Act, 1887,[2] and 12 of 1887, subject also to the provisions of sub-section (3) and of any rules and orders for the time being in force under section 10 of the Sonthal Parganas Settlement Regulation,[3] the Court of the Deputy Commissioner shall, for the 3 of 1872 same purposes, be deemed to be the principal Civil Court of original jurisdiction and the District Court for the Sonthal Parganas

Provided that the Lieutenant-Governor may, by notification in the official Gazette, direct that the Court of a Sub divisional officer shall, for the purposes of any enactment specified in the notification, be deemed to be the District Court for the local area within its jurisdiction.

(3) For the purposes of the Indian Divorce Act [4] the Commissioner shall 4 of 1869 be deemed to be the District Judge, and the High Court of Judicature at Fort William in Bengal to be the High Court

Control over  
Courts

16 (1) The general superintendence and control over Civil Courts of all other grades shall be vested in, and all such Courts shall be subordinate to, the Court of the Commissioner

(2) Subject to the general superintendence and control of the Court of the Commissioner, the Deputy Commissioner shall control all Civil Courts of the third and fourth grades

Appeals from  
original  
decrees or  
orders

17 (1) Subject to the provisions of this Part of this Chapter with respect to revision, a decree or order made in an original suit of value not exceeding fifty rupees by a Sub-divisional Officer, or in an original suit of value not exceeding one hundred rupees by the Deputy Commissioner, shall, if no question of title to immoveable property or to office connected with such property was directly or indirectly in issue in the suit, be final.

[1] The words "United Provinces" have been substituted for the words "North Western Provinces"—see the United Provinces (Designation) Act, 1902 (7 of 1902), s. 2, in General Acts, 1899-03, Ed 1904, p 201.

[2] Printed ante, p 199.

[3] Printed ante, p. 208.

[4] Printed in the General Acts, 1868-76, Ed. 1898, p 4.

of 1893 ]

JUSTICE REGULATION, 1893

(Chapter III—Civil Justice—Part II—Courts of officers appointed under section 2 of Act 37 of 1855—Secs 18-22)

(2) From every other decree or order in an original suit an appeal shall lie, when the decree or order was made,—

(a) by a Deputy Collector not in charge of a sub-division or by a Sub-Deputy Collector, to the Sub-divisional Officer provided that the Deputy Commissioner shall have power to order any such appeal to be transferred to his own file,

(b) by a Sub-divisional Officer, to the Deputy Commissioner,

(c) by the Deputy Commissioner, to the Commissioner

18 Subject to the provisions of this Part of this Chapter with respect to revision, an appellate order or decree shall be final in all cases where the decision of the Lower Court is affirmed, and no second appeal shall be allowed except when the Sub-divisional Officer or Deputy Commissioner has varied the decision of the Lower Court. In this case an appeal will lie to the Commissioner. Second appeals

The appellate order or decree upon a second appeal shall in all cases be final

19 (1) The Commissioner or Deputy Commissioner may, of his own motion or otherwise, call for the record of any case decided by a Court under his control in which an appeal does not lie or in which, for cause shown to his satisfaction, an appeal has not been preferred within the time limited therefor, and may pass such order in the case as he thinks fit Revision

(2) The Deputy Commissioner may, by order in writing, empower any Sub-divisional Officer under his control to exercise the powers conferred on the Deputy Commissioner by sub-section (1) with respect to the decisions of all or any of the Courts of Deputy Collectors not in charge of a sub-division, or Sub-Deputy Collectors, under the control of the Deputy Commissioner.

20 The Deputy Commissioner may, by order in writing, direct that any civil business cognizable by him and the Courts under his control shall be distributed among those Courts in such manner as he thinks fit Power for Deputy Commissioner to distribute business

Provided that no direction under this section shall empower any Court to exercise any powers or deal with any business beyond the limits of its proper jurisdiction

21 The Commissioner or Deputy Commissioner may withdraw any suit or other proceeding pending in any Court under his control and try it himself or refer it for disposal to any other Court under his control and competent to try it. Power for Commissioner and Deputy Commissioner to transfer proceedings.

22 (1) The Commissioner may, for sufficient reason, review any decree or order which has been passed by himself and from which an appeal has not been preferred to Her Majesty in Council. Review

(2) A Court subordinate to that of the Commissioner shall not review any decree or order made by it, except for the purpose of correcting a clerical error

THE SONTHAL PARGANAS JUSTICE REGULATION, [Reg 5 of 1893]  
1893

(Chapter III—Civil Justice—Part II—Courts of officers appointed under section 2 of Act 37 of 1855—Chapter IV—Supplemental Provisions—Secs 23-27)

or other error manifestly the result of an oversight, without previously obtaining,—

- (a) in the case of the Court of a Deputy Collector not in charge of a sub division, or Sub-Deputy Collector, or of a Sub-divisional Officer, the permission of the Deputy Commissioner, and
- (b) in the case of the Court of the Deputy Commissioner, the permission of the Commissioner

Decrees and orders not reversible on technical grounds alone

23 A decree or order made by the Court of an Officer appointed by the Lieutenant-Governor of Bengal under section 2 of Act 37 of 1855 [1] shall not be reversed or altered on appeal or revision on account of any irregularity of procedure, unless the irregularity has occasioned or is likely to occasion a failure of justice

#### CHAPTER IV

##### SUPPLEMENTAL PROVISIONS

Addition to s 6, Reg 3, 1872

24 To section 6 of the Sonthal Parganas Settlement Regulation the 3 of 1872 following shall be added, namely —

[Printed *ante*, p 296]

Pending Proceedings

25 All cases and proceedings, whether original or on appeal, review, reference or revision, pending in the Court of the Commissioner of the Bhagalpur Division, or of the Deputy Commissioner or any subordinate officer of the Sonthal Parganas, shall be disposed of as if this Regulation had not been passed, and no decree or order which may be made or passed in any such pending case in pursuance of any jurisdiction intended or purporting to be conferred by, or by the authority of, the Lieutenant-Governor of Bengal under Act 37 of 1855, [1] or any other enactment for the time being in force, shall be deemed invalid or be deprived of any of its effect by reason of the objection that such jurisdiction was not or could not have been lawfully conferred

Pending appeals

26. Appeals and applications for revisions from decrees, orders and decisions passed by the Deputy Commissioner or any subordinate officer of the Sonthal Parganas, and not appealed against before the date on which this Regulation comes into force, shall lie and be disposed of as if passed by Courts exercising similar jurisdictions under this Regulation

Limitation of the scope of directions under Act 37, 1855, s 1, cl. 2

27. Any directions which the Lieutenant-Governor of Bengal may issue under section 1, clause 2, of Act 37 of 1855 [1] must be consistent with this Regulation and with all other enactments for the time being in force in the Sonthal Parganas.

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[1] The Sonthal Parganas Act, 1855. It is printed *ante*, p 289.



[Reg 3 of 1899 ] THE SONTHAL PARGANAS JUSTICE AND LAWS  
REGULATION, 1899

THE SONTHAL PARGANAS JUSTICE AND LAWS  
REGULATION, 1899

(REGULATION 3 OF 1899) [1]

[23<sup>rd</sup> August, 1899]

A Regulation to amend the Sonthal Parganas Justice Regulation, 1893, and the Sonthal Parganas Settlement Regulation, as amended by the Sonthal Parganas Laws Regulation, 1886

5 of 1893 WHEREAS it is expedient to amend the Sonthal Parganas Justice Regulation, 1893 [2], and the Sonthal Parganas Settlement Regulation [3], as amended  
3 of 1872<sup>1</sup> by the Sonthal Parganas Laws Regulation, 1886, [4] It is hereby enacted as  
3 of 1886, follows —

1. (1) This Regulation may be called the Sonthal Parganas Justice and Laws Regulation, 1899, Short title

(2) [Commencement] *Rep by the Repealing and Amending Act, 1903 (1 of 1903)*

5 of 1893 2 For section 4 of the Sonthal Parganas Justice Regulation, 1893, the following shall be substituted, namely —

4 [Printed *ante*, p 326]

3 of 1872. 3. For section 3 of the Sonthal Parganas Settlement Regulation, as  
3 of 1886, amended by the Sonthal Parganas Laws Regulation, 1886 [4], with the schedule annexed thereto, the following, with the schedule annexed to this Regulation, shall be substituted, namely —

3. [Printed *ante*, p 294]

Substitution of new section for section 4, Regulation 5, 1893  
Substitution of new section and Schedule for section 3 and schedule, Regulation 3, 1872

THE SCHEDULE.

[Printed *ante*, p 302.]

[1] LOCAL EXTENT — This Regulation extends only to the Sonthal Parganas, as described in the Schedule printed at the end of the Sonthal Parganas Act, 1855 (37 of 1855), *ante*, p. 291

[2] Printed *ante*, p 325.

[3] Printed *ante*, p 293

[4] Reg 3 of 1886 was repealed by the Repealing and Amending Act, 1903 (1 of 1903)

# THE SONTHAL PARGANAS RURAL POLICE REGULATION, 1900

(REGULATION 3 OF 1900)

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- 2 Power to vary local extent of Regulation
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- 11 Nature and amount of assessment
- 12 Alteration of village-assessment and preparation of revised list of monthly payments
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## THE SCHEDULE.

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of 1900 ]

RURAL POLICE REGULATION, 1900.

# THE SONTHAL PARGANAS RURAL POLICE REGULATION, 1900

(REGULATION 3 OF 1900).<sup>[1]</sup>

[4th July, 1900]

## A Regulation to provide for the Organization and Maintenance of the Rural Police in the Sonthal Parganas

WHEREAS it is expedient to provide for the organization and maintenance of the rural police in the Sonthal Parganas, It is hereby enacted as follows —

1. (1) This Regulation may be called the Sonthal Parganas Rural Police Regulation, 1900 Short title

(2) It extends to the whole of the Sonthal Parganas, as described in the Schedule [2] to Act 10 of 1857 and in the Notification [2] of the Governor General in Council No 478, dated the 12th March, 1877 Extent

(3) [Commencement] *Rep by the Repealing and Amending Act, 1903 (1 of 1903).*

2 The Local Government may, by notification in the Calcutta Gazette, withdraw this Regulation, or any part thereof, from any portion of, the Sonthal Parganas, and may extend this Regulation, or any part thereof, to any portion of the Sonthal Parganas from which the same has been so withdrawn Power to vary local extent of Regulation

3 In this Regulation, unless there is anything repugnant in the subject or context,— Definitions

(a) "Deputy Commissioner" means the Deputy Commissioner of the Sonthal Parganas, and includes any officer appointed by the Local Government to perform the functions of the Deputy Commissioner under this Regulation;

(b) "under-tenure" includes also the tenures known as mukarran, shikmi and khor-o posh, and

(c) "zamindar" means the person whose name is registered in the general register of estates paying revenue directly to the Government as the proprietor of an estate so paying revenue, or the

[1] LOCAL EXTENT — This Regulation extends only to the Sonthal Parganas, as described in the Schedule printed at the end of the Sonthal Parganas Act, 1855 (37 of 1855), *ante*, p 291—see s 1 (2) of the Regulation.

[2] The Schedule is printed *ante*, p. 291, and the Notification is published in the Gazette of India, 1872, Pt 1, p 240. The descriptions in the Schedule and the Notification are identical.

person whose name is registered in the general register of revenue-free lands as the proprietor of a revenue-free tenure, and includes also the ghatwals or Tapah Suath Deoghur, whose tenures are subject to the provisions of Bengal Regulation 29 of 1814 (*a Regulation for the settlement of certain mahals in the district of Burdham, usually denominated the Ghatwahi Mahals*) [1]

Formation of villages and circles and appointment of sardars.

4 The Deputy Commissioner may, from time to time, by order in writing—

- (a) declare any local area or group of houses to be a village for the purposes of this Regulation,
- (b) form any of such villages into circles, and
- (c) appoint a sardar for each circle

Provided that, in the Damin-i-Kon and in the ghatwals subject to the provisions of the said Bengal Regulation 29 of 1814, [1] the circles shall be so formed as to admit of the duties of sardar being performed by pargana<sup>s</sup> or its sardars or ghatwals, as the case may be, according to existing arrangements

Deputy sardars

5 (1) The person or persons responsible for performing the duties of sardar in any circle may appoint a deputy sardar for any period

Provided that the appointment of any deputy sardar, and the period for which he is appointed, shall be subject to the approval of the Deputy Commissioner

(2) A deputy sardar may perform any of the duties of the sardar who appointed him, but shall have no claim on the villagers for remuneration, unless he has a customary right to receive remuneration from them, or the Deputy Commissioner directs that he be paid by them and not by the sardar who appointed him

Number of chaukidars for each village.

6. The Deputy Commissioner shall determine the number of chaukidars to be employed in each village

Provided that, without the previous sanction of the Commissioner, there shall not be more than one chaukidar for every sixty houses

Salaries and equipment of sardars, deputy sardars and chaukidars.

7. The amount required for the salaries and equipment of the sardars, deputy sardars and chaukidars employed under this Regulation shall be determined by the Deputy Commissioner

Provided that the salary of a sardar shall not be less than eight rupees, nor more than twelve rupees, *per mensem*, the salary of a deputy sardar shall

[1] The Bengal Ghatwahi Lands Regulation, 1814. It is printed in this Volume, *post*.

of 1900 ]

## RURAL POLICE REGULATION, 1900

(Secs 8, 9)

not be less than six rupees, nor more than eight rupees, *per mensem*, and the salary of a chaukidar shall not be less than two rupees, nor more than six rupees, *per mensem*

Provided also that, in determining the salaries of the sardars, deputy sardars and chaukidars employed as aforesaid, the Deputy Commissioner shall take into consideration the value of any chakaran lands which may be held by them, or be provided for them by the zamindars, under-tenure-holders or villagers, and any customary payments made to them by the villagers in money, in produce or in kind

8 (1) Where a zamindar or under-tenure-holder holds subject to the condition, expressed or implied, of supporting the police within his zamindari or under-tenure, he shall be liable to pay the amount determined by the Deputy Commissioner under section 7

Payments  
by zamindars  
or under-  
tenure  
holders

Provided that the Deputy Commissioner may, with the previous sanction of the Commissioner, in any case, after recording his reasons in writing, abstain from enforcing the said liability, or enforce the same only in part

(2) The amount due under sub-section (1) from any zamindar or under-tenure-holder shall be paid by equal quarterly instalments, and, if the instalment for any quarter is unpaid after the first day of the quarter, the Deputy Commissioner shall issue a notice calling on the defaulter to pay the same, together with the costs of service, within a period of fifteen days from the date of serving the notice.

(3) If the amount specified in any notice issued under sub-section (2) is not paid within the period fixed as aforesaid, the Deputy Commissioner may attach the estate or under-tenure of the defaulter and retain possession of the same until the amount has been recovered out of the income derivable therefrom

9. (1) In cases other than those referred to in section 8, and in cases in which the liability under that section is not enforced or is only partially enforced, the amount required for the salaries and equipment of the sardars or deputy sardars and chaukidars employed under this Regulation, together with a sum, not exceeding two annas in the rupee, of that amount to provide for payment of the costs of collection and the keeping of accounts and for losses from the non-realization of sums from defaulters, shall be assessed on each village

Village-as-  
sessments.

(2) Every owner or occupier of a house or land in any village, and every zamindar or under-tenure-holder who has a cutcherry for the collection of rent within the village, shall be liable to the said assessment.

List of  
monthly pay-  
ments

10. (1) The total amount payable by each village shall be fixed by the Deputy Commissioner, and thereupon the headman or headmen of the village, or, in areas in which there are no headman, such person as the Deputy Commissioner may appoint in this behalf, shall prepare a list showing the amount payable monthly by each person liable to assessment in the village

(2) If, within three months after the Deputy Commissioner has fixed the amount payable by any village, the said list has not been prepared, the Deputy Commissioner may cause the list to be prepared by such means as he may think fit

(3) Every list prepared under this section shall, when sanctioned by the Deputy Commissioner, be published at some conspicuous place within the village to which it relates, and shall remain in force until altered by the Deputy Commissioner

Nature and  
amount of  
assessment

11. The amount at which each person is assessed under section 10 shall be fixed according to the circumstances and the property to be protected of that person

Provided that the amount to be assessed on any one person shall not exceed one rupee *per mensem* in the case of a zamindar, under-tenure-holder or trader, or eight annas *per mensem* in the case of an ordinary raiyat

Provided also that every person who is, in the opinion of the Deputy Commissioner, too poor to pay half an anna *per mensem* shall be exempted from assessment.

Alteration of  
village assess-  
ment,  
and prepara-  
tion of  
revised list of  
monthly  
payments

12. (1) The Deputy Commissioner may, from time to time, alter the amount assessed on any village

(2) Before the month of October in the year immediately preceding that in which any alteration made under sub-section (1) is to take effect, the Deputy Commissioner shall give notice of the alteration to the person or persons whose duty it is to prepare the list prescribed by section 10, and thereupon a revised list of the sums payable by each person shall be prepared in the manner prescribed by that section.

Revision or  
confirmation  
of assess-  
ment.

13. Any person who is dissatisfied with the amount at which he has been assessed may apply to the Deputy Commissioner, either orally or in writing, for a revision of the assessment, and the Deputy Commissioner may amend, remit or confirm the assessment

Assessment  
payable  
quarterly in  
advance.

14. Every amount assessed under this Regulation shall be paid by equal quarterly instalments, and the instalments on account of each quarter shall be due on the first day of the quarter

of 1900 ]

## RURAL POLICE REGULATION, 1900

(Secs 15-19)

15 (1) The headman or other person whose duty it is to prepare the list prescribed by section 10 shall collect the amount payable by each of the persons named in the list and shall grant receipts for the same.

Collection of assessment and remuneration of the collector.

(2) Every such headman or other person as aforesaid may retain out of the amount collected by him a sum, not exceeding one anna in the rupee, as remuneration for making the collection

(3) In any village in which two or more persons are charged with the duty of preparing the list prescribed by section 10, those persons, or, if they fail to make the appointment, the Deputy Commissioner, shall appoint one of their number to receive the collections from the others and keep the accounts of the collections, and the person so appointed may retain out of the amount received by him a sum, not exceeding half an anna in the rupee, as remuneration for receiving the collections and keeping the accounts

16 At the end of the first month of each quarter, the sardar, or, in the Damin-i-Koh, the parganait, shall prepare a list of persons assessed who have failed to pay the amounts due from them for the quarter, and shall apply to the Deputy Commissioner for the attachment and sale of any moveable property belonging to the defaulters, at the same time publishing a copy of the list at some conspicuous place within the village to which it relates

List of defaulters and application for distraint

17. Where any person whose name has been included in a list of defaulters prepared under section 16 desires to dispute his liability to pay the amount mentioned therein, or any part thereof, he may, within fifteen days of the publication of the copy of the list within the village, apply to the Deputy Commissioner, either orally or in writing, stating the grounds of his objection and the Deputy Commissioner shall examine his objection and pass such order thereon as he may think fit.

Decision of objections to list of defaulters.

18 (1) When the Deputy Commissioner receives a list of defaulters prepared under section 16, he shall, subject to any orders passed under section 17, issue a warrant in the form set forth in the schedule

Distress-warrants

(2) Every warrant issued under sub-section (1) shall be signed by the Deputy Commissioner, and shall authorize the person therein named in that behalf to recover, by distraint and sale of a sufficient portion of the moveable property of each of the defaulters, other than plough-cattle and tools and implements of trade or agriculture, the amount due from him, together with a sum equal to a proportionate share of the costs of distraint and sale

19. (1) The person so authorized shall seize and keep in his own custody such portion of the moveable property of the defaulters as he may think

Seizure of property and

proclamation  
of sale

sufficient, and shall make an inventory of all moveable property so seized, and shall, at the same time, make proclamation, by beat of drum, of the time and place where the property will be sold

(2) The time of sale fixed under sub-section (1) shall be not less than five, or more than ten, days from the date of the proclamation thereof

Sale of  
property and  
application  
of proceeds

20 Where a defaulter does not, within the time so proclaimed, pay the amount due from him, together with his share of the costs of the distraint the moveable property distrained, or a sufficient portion thereof, shall be sold by public auction at the time and place so proclaimed, and the proceeds shall be applied in discharge of the said amount and costs, the surplus (if any) being returned to the owner of the distrained property

No dis-  
traint after  
one year

21. No amount payable under this Regulation shall be recovered by distraint and sale under the foregoing provisions after the expiration of one year from the date on which the same became due.

Delegation of  
Deputy  
Commissioner's  
powers

22. The Deputy Commissioner may, from time to time, by order in writing, with the previous sanction of the Commissioner, delegate all or any of his powers under this Regulation to any Magistrate subordinate to him, or to the District Superintendent of Police, and may in like manner withdraw any order so made

District  
Chaukidari  
Reward  
Fund

23. All fines levied from sardars and chaukidars under this Regulation shall be credited to a fund, to be called the District Chaukidari Reward Fund, the control over which shall rest with the Deputy Commissioner

Power to  
make rules

24. (1) The Local Government may make rules to carry out the purposes and objects of this Regulation

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may—

(a) regulate the appointment of sardars, deputy sardars and chaukidars and their punishment, whether by dismissal, suspension or fine,

(b) determine the duties to be performed by sardars, deputy sardars, and chaukidars,

(c) determine and regulate the method and times for paying sardars, deputy sardars and chaukidars their salaries,

(d) provide for the equipment of sardars, deputy sardars and chaukidars;

(e) regulate the mode of assessing and collecting the amounts payable under this Regulation; and

(f) regulate the payment of rewards out of the District Chaukidari Reward Fund.



RURAL POLICE REGULATION, 1900

(The Schedule)

## THE SCHEDULE

(See section 18)

## FORM OF DISTRESS-WARRANT

To

WHEREAS the several persons named in the following list have made default in payment of the sums in the said list set opposite to their respective names

You are hereby authorized and required to recover, by distress and sale of a sufficient portion of the moveable property of the said defaulters, the said several sums set opposite to their respective names, together with the additional sums by way of costs mentioned in the said list —

### List of Defaulters

Name and description	Amount	When due	Costs	TOTAL
1	2	3	4	5

# DISTRICTS

Act 21 of 1836	.	the Bengal Districts Act, 1836	page 342
Ben Act 4 of 1864	.	the Bengal Districts Act, 1864	„ 343

## THE BENGAL DISTRICTS ACT, 1836 [1]

(ACT 21 OF 1836).

[19th September, 1836]

Power to  
create new  
zilas

\* \* \* [2] it shall be lawful for [3] [the Governor General in Council, by an Order in Council,] to create new zilas in any part of the Presidency of Fort William in Bengal \* \* [4]

[1] **SHORT TITLE**—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903) *ante*, p 18

**LOCAL EXTENT**—This Act has been declared by the Laws Local Extent Act, 1874 (15 of 1874), s 6 (printed, General Acts, 1863-76, Ed 1898, p 485), to be in force throughout Bengal, except as regards the Scheduled Districts

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s 3, to be in force in the following Scheduled Districts, namely—

West Jalpaiguri and the Western Duars, in the Jalpaiguri District—*see* Vol V, Part V B (a), and

the Hazaribagh, Ranchi, Palamau and Maubhum Districts, and Paragana Dhalbhum and the Kolhan in the Singhbhum District, in the Chota Nagpur Division—*see* *ib*, Part V B (b)

It is in force in the Sonthal Parganas—*see* Vol V, Part V B (c), but its application in the other de-regulationised tracts in Bengal is barred as follows, namely—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s 3 (2), *ante*, p 257, and

in the Chittagong Hill tracts, by the Chittagong Hill tracts Regulation, 1900 (1 of 1900), s 4 (2), *ante*, p 282

**DEFINITIONS**—For references to a number of definitions of the word “district,” *see* the Index to the Indian Statutes, Ed 1897, p 808

[2] Formal words repealed by the Repealing Act, 1874 (16 of 1874) are omitted

[3] The words in square brackets are to be read as if the words “the Local Government, with the previous sanction of the Governor General in Council, by notification in the local official Gazette” were substituted therefor—*see* the Repealing and Amending Act, 1903 (1 of 1903), Schedule II, Pt II, *ante*, p 46

[4] The words “and to alter the limits of existing zilas”, which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted Power to alter the limits of districts is given by the Bengal Districts Act, 1864 (Ben Act 4 of 1864), printed *post*, p 343 Power to alter the limits of Collectorships is also given by the Bengal Land revenue (Assistant Collectors) Regulation, 1821 (4 of 1821), s 8 (1), printed in Vol II of this Code Power to transfer districts from one Division to another is given by the Bengal Revenue Commissioners Regulation, 1823 (1 of 1823), s 2, printed *ante*, p 181

[Ben. Act 4 of 1864]

## THE BENGAL DISTRICTS ACT, 1864 [1]

(BENGAL ACT 4 OF 1864).

[20th April, 1864]

## An Act to amend Act 21 of 1836 [2]

Preamble

WHEREAS it is expedient to amend Act 21 of 1836 [2], It is enacted as follows —

It shall be lawful for the Lieutenant-Governor of Bengal from time to time to alter the limits of existing zilas in any part of the provinces subject to the control of the said Lieutenant-Governor.

Lieutenant  
Governor may  
alter limits of  
existing zilas.

[1] SHORT TITLE — This short title was given by the Repealing and Amending Act, 1908 (1 of 1903), *ante*, p 18

LOCAL EXTENT — This Act applies to the whole of Bengal—*see* the *and* of 374),  
It has been declared, by notification under the Scheduled Districts  
s 3, to be in force in the following Scheduled Districts, namely — *and* out  
the Hazaribagh, Ranchi, Palamau and Manbhum Districts, and Dhalbhum and  
the Kolhan in the Singhbhum District, in the Chota Nagpur Division—*see* Vol V,  
Part V B (b)

It is in force in the Sonthal Parganas—*see* Vol V, Part VI B (i) but its application  
in the other de regulationised tracts in Bengal is varied as follows, namely *e*  
in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s 3(2) *ante*, p.  
257, and  
in the Chittagong Hill tracts, by the Chittagong Hill tracts Regulation, 1900 (1 of 1900),  
s 4 (2), *ante*, p 252

[2] The Bengal Districts Act, 1836 It is printed *ante*, p 342

# DRAINAGE.

Ben Act 6 of 1880	.	.	the Bengal Drainage Act, 1880	page 343
Ben Act 8 of 1895	.	.	the Bengal Sanitary Drainage Act, 1895	379
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## THE BENGAL DRAINAGE ACT, 1880

(BENGAL ACT 6 OF 1880).

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	[Commencement] Repealed	
2	Repeal of Bengal Act 5 of 1871.	
3.	Interpretation clause.	

### PART I

#### APPOINTMENT OF COMMISSIONERS AND CONDUCT OF BUSINESS.

4. Lieutenant-Governor to appoint Commissioners
5. Lieutenant-Governor to appoint Chairman  
Commissioners may sue and be sued in his name
6. Meetings of Commissioners and quorum
7. Extraordinary meetings
8. Presidency of meetings
9. (1) Transaction of business at meetings.  
(2) Delegation of powers to Committee.  
(3) Election of Chairman of Committee  
(4) Adjournment, voting, etc., of Committee
10. Power to appoint servants.
11. When objects of their appointment fulfilled, Lieutenant-Governor may direct Commissioners' powers and functions to cease.

### PART II

#### DRAINAGE SCHEME

12. Commissioners to cause a notification of the scheme to be published.
13. List of persons assenting or objecting to be published.

## [Ben Act 6 of 1880] THE BENGAL DRAINAGE ACT, 1880

## SECTION

- 14 (1) Commissioners how to ascertain what proprietors have assented  
(2) Vote for estate, tenure, etc., held by two or more co-shares
15. Persons voting to specify the extent of their lands
- 16 (1) Commissioners to decide who is entitled to vote  
(2) Vote for property held by a minor or lunatic  
(3) Case of landholder not found.
- 17 If half of landholders agree, Commissioners to consider the scheme submitted
- 18 Power to proceed with portion of scheme
- 19 Scheme approved by Commissioners to be laid before the Lieutenant-Governor
20. (1) Power to re-consider scheme and modify it  
(2) Publication of modified scheme
- 21 Powers for the acquisition of land
- 22 Lieutenant-Governor may order scheme to be carried out.
- 23 Power to Lieutenant-Governor to modify scheme
- 24 (1) Claims to compensation for damage caused in carrying out scheme or works.  
Compensation to be assessed by the Commissioners  
Reference to Civil Court if amount assessed be not accepted  
(2) Reference to Civil Court where amount of compensation agreed to or settled by Court, but dispute as to its apportionment  
(3) Reference may in certain cases be transferred to Subordinate Judge or Munsif for disposal

## PART III

## EXPENDITURE AND APPORTIONMENT.

- 25 Cost of compensation, etc., to be deemed part of expense of construction  
Such expense may be defrayed by advances from the public funds
- 26 Interest to be charged on such advances
- 26A. Rate of interest, and barring of compound interest
27. Reports to be made and expenditure certified
- 28 (1) Commissioners upon expiry of three years from completion report to classify lands benefited by the works, distinguishing between improved lands and reclaimed lands.  
(2) Cost of construction with interest to be apportioned upon the improved lands and reclaimed lands  
Amount payable for the improved lands not to exceed value of improvement.
- 29 [*Repealed.*]
30. When the land is part of a tenure, etc., Commissioners may declare who shall be deemed liable as landholders.
31. Amounts made payable to be a charge upon the improved lands and reclaimed lands respectively. Secretary of State for India in Council to have a perpetual lien for their recovery.

## SECTION

- 32 Commissioners to report apportionment
- 33. In default of Commissioners, officer appointed by Lieutenant Governor to make apportionment and report
- 34 Report to be published
- 35 Appeal against apportionment
- 36 Final determination of apportionment
- 36A Power to add to, or alter, declaration as to names of persons liable to pay.

## PART IV.

## RECOVERY OF SUMS DUE TO THE COLLECTOR

- 37 Collector to serve notice of apportionment, requiring payment or engagement to pay.
- 38 If amount not discharged, the Collector may recover it as a public demand
- 39 Collector may also, with sanction of Board of Revenue, raise unpaid amount by leasing or mortgaging the improved or reclaimed lands
- 40. Recovery of unrealised portion of charge
- 41 Power to repay advances

## PART IVA.

## RECOVERY OF SHARE OF PAYMENTS FROM CO-SHARERS

- 41A Power to recover share of payments from co-sharers

## PART V

RECOVERY BY LANDHOLDERS OR SUPERIOR TENANTS OF THE COST OF THE WORKS  
FROM PERSONS HOLDING LAND UNDER THEM

- 42 Proprietor may recover from subordinate tenants.
- 43. Recovery by superior tenant.
- 44 (1) Mode and time of payment
- (2) Provision in case of dispute as to the amount to be paid
- (3) Collector to decide objection
- 44A. Recovery, under the certificate procedure, of payments made in respect of land held by tenants.
- 44B Bar to recovery of money from tenants in certain cases,
- 45 Proviso.

## PART VI

## MISCELLANEOUS.

- 46. Drainage works to be subject to the laws relating to embankments.
- 47. Lands and works to be vested in Collector on behalf of Secretary of State.

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## DRAINAGE ACT, 1880

## SECTION

- 48 (1) Cost of maintenance of works
- (2) Recovery of items omitted from apportionment
- (3) Surplus profits from property vested in Collector under section 47 to be appropriated to payment of debt to Government
- (4) Cost of maintenance may be capitalized, and the capitalized amount levied
- 49 Powers for taking evidence
- 50 Rent-free lands may be deemed subordinate tenures.
- 51 Sum payable by holder of rent-free land to be payable in two instalments
- 51A Recovery, under the certificate procedure, of payments made in respect of land held free of rent or revenue.
- 51B Further provisions as to applications under section 41A, 44A or 51A
- 51C Grant of certificate, and effect thereof
- 51D Power of Collector to suspend recovery of dues in case of failure of crops
- 51E Bar to jurisdiction of Courts in respect of order of suspension.
- 51F. Procedure when landholder or tenant collects dues during period of suspension.
- 51G Extension of period for payment of instalments when order of suspension made
- 51H Extension of period of limitation when order of suspension made
- 51J Interest not to accrue during period of suspension
- 52 Service of notices
- 53 Proceedings not to be invalidated by formal errors
- 54. Portion of scheme may be deemed separate scheme
- 55 Lieutenant-Governor may empower other person to act for Collector
- 56 Collector may delegate authority
- 57 Control of Commissioner
- 58. Power to make, alter and cancel rules
- Publication of rules.

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 PART VII.

## SPECIAL PROVISIONS FOR WORKS CARRIED OUT UNDER BENGAL ACT 5 OF 1871

- 59. Portions of this Act applicable to works carried out under Bengal Act 5 of 1871.
- 60-63 [*Repealed*]

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 SCHEDULE A.  
 SCHEDULE B.

(Preliminary — Secs 1-3)

## THE BENGAL DRAINAGE ACT, 1880

(BENGAL ACT 6 OF 1880) [1]

[9th June, 1880]

An Act to provide for the drainage and improvement of lands

## Preamble

WHEREAS it is expedient that provision should be made for the better drainage and improvement of lands in the territories administered by the Lieutenant-Governor of Bengal, It is hereby enacted as follows —

## PRELIMINARY

## Short title

1. This Act may be called “The Bengal Drainage Act, 1880”

## Extent

It extends to all the territories for the time being under the administration of the Lieutenant Governor of Bengal

[Commencement] *Rep by the Repealing and Amending Act, 1903 (1 of 1903).*

Repeal of  
Bengal Act 5  
of 1871

2. Bengal Act 5 of 1871 (*the Hooghly and Burduan Drainage Act*) shall be repealed on and from the date upon which this Act comes into force, but, subject to the provisions of this Act, this repeal shall not affect the past operation of such Act, or anything duly done or suffered, or any right, privilege, obligation or liability acquired, accrued or incurred thereunder

Interpretation  
clause

3. In this Act, unless there be something repugnant in the subject or context,—

## “The Collector”

“the Collector” means the officer in charge of the revenue jurisdiction of

[1] LEGISLATIVE PAPERS — For Statement of Objects and Reasons, *see* Calcutta Gazette 1879, Pt IV, p 64, for Report of Select Committee, *see ibid*, 1880, Pt IV, p 100, and for Proceedings in Council, *see ibid*, Supplement, 1879, pp 381, 391 and 1448, Supplement, 1880, pp 206, 394 and 409

LOCAL EXTENT — This Act extends to the whole of Bengal—*see* s 1

It is in force in the Sonthal Farganas—*see* Vol V, Part VI B (c), but its application in the other de-regulationised tracts in Bengal is barred as follows, namely —

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s 3 (2), *ante*, p 257, and

in the Chittagong Hill tracts, by the Chittagong Hill tracts Regulation, 1900 (1 of 1900), s 4 (2), *ante*, p 282

REPRINTS — This Act has been reprinted (by the Legislative Department of the Government of Bengal) as modified by subsequent legislation up to the 1st November, 1902

It is also reprinted in the Irrigation Manual, 1897, Vol II, pp 39 to 50

RULES, ETC — For rules, letters and other documents issued under or with reference to this Act, *see* the Irrigation Manual, 1897, Vol I, pp. 109 to 123

OTHER ENACTMENTS — As to the drainage of rural areas, *see* also the Bengal Irrigation Act, 1876 (Ben. Act 3 of 1876), in Vol II of this Code, and the Bengal Sanitary Drainage Act, 1895, (Ben. Act 8 of 1895), *post* p 379

The Bengal Embankment Act, 1882 (2 of 1882), does not apply to any embankment, land or water-course which is under the operation of Bengal Act 6 of 1880—*see* Bengal Act 2 of 1882, s. 51, *post*.



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DRAINAGE ACT, 1880

(Preliminary — See 3)

the district within which the lands which form the subject of a scheme under this Act, or the greater portion of such lands, are situate. If any doubt arises as to whether the greater portion of the lands is situate within one of two or more districts, the Board of Revenue shall decide the point, and such decision shall be final.

Ben Act I of 1895 of section 4 of the Public Demands Recovery Act, 1895 [2] [1] "Certificate officer" means a Certificate officer as defined in clause (2) "Certificate officer"

"the Commissioners" mean the Drainage Commissioners to be appointed under this Act "The Commissioners"

"estate" means land included under one entry in the general registers of revenue-paying lands and revenue free lands, prepared and maintained under the law [3] for the time being in force by any Collector of a district, or a share of, or interest in, such land "Estate"

"proprietor" means a person who as owner is solely or jointly in possession of an estate "Proprietor"

"tenure" means— "Tenure"

(1) a permanent rent-paying interest in land immediately subordinate to that of a proprietor and superior to that of a raiyat, extending to not less than one hundred standard bighas, affected, or to be affected, by any works under this Act,

(2) a permanent revenue-free or rent-free interest in land affected or to be affected by any works under this Act, when there exists no rent-paying interest in the same land between the proprietary interest in the estate and such revenue-free or rent-free interest

"under-tenure" means—

(1) a permanent rent-paying interest in land subordinate to that of a tenure-holder and superior to that of a raiyat, extending to not less than one hundred standard bighas, affected or to be affected by any works under this Act,

(2) a revenue-free or rent-free interest in land affected or to be affected by any works under this Act, when there exists a rent-paying interest in the same land between the proprietary interest in the estate and such revenue-free or rent-free interest

*Explanation.* The term "permanent" is used with reference to the tenure or under-tenure itself, and not with reference to the person who happens

[1] This definition of "Certificate officer" was inserted by the Bengal Drainage (Amendment) Act, 1902 (Ben Act 2 of 1902), § 2, *post*, p. 393

[2] Printed in Vol. IV of this Code

[3] See the Land Registration Act, 1876 (Ben Act 7 of 1876), printed in Vol. IV of this Code.

*(Part I—Appointment of Commissioners and Conduct of Business —**Sec 4)*

to hold such tenure or under-tenure for the time being. A tenure or under-tenure is none the less permanent although held by a Hindu widow, a Sebari or a person subject to the Mitakshara law

“landholder” and “holder of land” mean—

“Landholder”  
and “holder  
of land”

(1) any person who as owner of an estate is solely or jointly in possession thereof,

(2) any person who as owner of a tenure or under-tenure is solely or jointly in possession thereof

where two or more persons are joint landholders, they shall be jointly and severally liable under this Act, except as is otherwise expressly provided herein

“Reclaimed  
land”

“reclaimed land” means land which was unfit for cultivation before the execution of any works under this Act, but which has been rendered productive by such works

“Improved  
land”

“improved land” means land which was more or less fit for cultivation before the execution of any works under this Act, but of which the productive powers have been increased by such works

“Part” and  
“section”

“Part” and “section” mean, respectively, a Part and section of this Act

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## PART I

### APPOINTMENT OF COMMISSIONERS AND CONDUCT OF BUSINESS

Lieutenant-  
Governor to  
appoint Com-  
missioners.

4. Whenever it appears expedient to the Lieutenant-Governor to carry out any scheme and plans for the drainage and improvement of any tract of land, the Lieutenant-Governor may appoint any number of persons, not less than seven, of whom the majority shall be qualified by being holders of lands to be affected by the works mentioned in the said scheme and plans, or managers on behalf of such holders, to be Drainage Commissioners for carrying out the provisions of this Act,

and the Lieutenant-Governor may, from time to time, remove or accept the resignation of any such Commissioner, or may add to the number of the Commissioners, and may appoint another person in the place of any such Commissioner dying, resigning, being removed or ceasing to reside in the district in which such lands are situate, but so as that the majority of the Commissioners shall always be persons qualified as aforesaid.

of 1880 ]

## DRAINAGE ACT, 1880

(Part I — *Appointment of Commissioners and Conduct of Business —*  
*Secs 5-9* )

No act done or proceeding taken by the Commissioners shall be invalid merely on the ground that at the time of doing such act or of taking such proceeding the majority of the Commissioners were not persons qualified as aforesaid

5. The Lieutenant-Governor shall from time to time appoint one of the persons so appointed Commissioners as aforesaid to be Chairman of the Commissioners, and may at any time, if he see fit, revoke such appointment and appoint another of such persons to be Chairman

Lieutenant  
Governor  
to appoint  
Chairman

The Commissioners may sue and be sued in the name of their Chairman

Commissioners  
may sue and  
be sued in his  
name

6. The Commissioners shall ordinarily meet for the transaction of business once at least in every quarter

Meetings  
of Commis-  
sioners and  
quorum

Such meeting shall be held upon such day and at such hour as the Commissioners shall from time to time determine

No business shall be transacted at any meeting unless at least three members are present at the commencement and close of such business

7. The Chairman of the Commissioners may, whenever he thinks fit, and shall, upon request made in writing by three of the Commissioners, call an extraordinary meeting of the Commissioners

Extraordinary  
meetings

8 The Chairman shall preside at every meeting of the Commissioners ; but, in case of his absence at the time appointed for holding a meeting, the Commissioners present may choose one of their number to be President of such meeting

Presidency of  
meetings.

9. (1) All questions at any meeting, including the question of adjourning such meeting, shall be decided by a majority of votes of the members present In case of an equality of votes the President for the time being of such meeting shall have a second or casting vote.

Transaction  
of business at  
meetings

(2) The Commissioners may delegate any of their powers to Committees consisting of such member or members of the body as they think fit Any Committee so formed shall, in the exercise of the powers delegated, conform to any regulations that may be imposed on them by the Commissioners

Delegation of  
powers to  
Committee.

(3) A Committee may elect a Chairman at their meetings If no Chairman is elected, or if he is not present at the time appointed for holding any meeting, the members present shall choose one of their number to be Chairman of the same.

Election of  
Chairman of  
Committee.

(Part I—Appointment of Commissioners and Conduct of Business —

Part II—Drainage Scheme—Secs 10-13)

Adjournment,  
voting, etc., of  
Committee

(4) A Committee may meet and adjourn as they think proper. Questions at any meeting shall be determined by a majority of votes of the members present, and in case of an equal division of votes the Chairman shall have a second or casting vote.

Power to  
appoint ser-  
vants

10 The Chairman of the Commissioners may, by an order in writing, appoint and dismiss such servants and officers, other than engineers and their subordinates, as may be required for the purposes of this Act, and he may control them as he shall see fit.

There shall be paid to such servants and officers, respectively, such salaries as may appear to the Commissioners to be proper.

When objects  
of their ap-  
pointment  
fulfilled,  
Lieutenant  
Governor  
may direct  
Commission-  
ers' powers  
and functions  
to cease

11 The Lieutenant-Governor may, when satisfied that the objects of their appointment have been fulfilled, direct that the powers and functions of the Commissioners shall cease.

## PART II.

### DRAINAGE SCHEME.

Commission-  
ers to cause a  
notification of  
the scheme  
to be pub-  
lished

12. The Commissioners shall, within three months after their appointment, cause a notification in the language of the district to be published by beat of drum in every village in which may be situate any portion of the lands to be affected by the works proposed in such scheme and plans.

Every such notification shall be in the form in Schedule A hereto annexed, and shall further be published by posting the same at the office of the Collector and of the Sub-divisional officer, and in some conspicuous part of the village aforesaid, and at the Court of the Munsif within whose jurisdiction and at the thana within the limits of which, such village is situate.

Last of persons  
assenting or  
objecting to  
be published.

13. After the date named in such notification a list of the persons who may have given their assent or made any objection in writing in accordance with such notification shall be prepared and published, in the manner provided in section 12, for the information of all concerned.

Such list shall contain a specification of the land in respect of which such persons claim to vote as landholders, and of the titles in virtue of which they claim to vote, respectively, and there shall be appended thereto a notice that objections to the right of voting so claimed must be lodged with the Commissioners within one month after the publication of the said list.

of 1880.]

## DRAINAGE ACT, 1880

*(Part II — Drainage Scheme — Sec 14)*

14. (1) The Commissioners may, at some meeting to be held not less than one month after such list has been published under the provisions of section 13, proceed to ascertain whether the holders of half of the lands to be reclaimed or improved have assented in writing to the adoption of the scheme

Commissioners how to ascertain what proprietors have assented

For the purpose of so ascertaining, the Commissioners shall take into account the vote of not more than one landholder in respect of any one portion of the area affected, and, whenever more than one landholder shall have given his vote in respect of the same portion of such area, the Commissioners shall take into account the vote of the landholder who holds the lowest interest in respect of such area, and shall not take into account in respect of such area the vote of any superior landholder who may have voted

*Example—*

A gives his vote as proprietor of 5,000 bighas,

B, as patnidar of 2,000 bighas included in A's proprietary of 5,000 bighas,

C, as mukarnadar of 100 bighas included in B's patni,

D, as holding a permanent jama of 500 bighas included in A's proprietary of 5,000 bighas, but not in B's patni of 2,000 bighas

the Commissioners shall take into account the votes of the respective landholders in respect of the following areas —

	Bighas
D for . . . . .	500
C „ . . . . .	100
B „ (2,000—100=) . . . . .	1,900
A „ (5,000—2,000—500=) . . . . .	2,500
Total . . . . .	5,000

(2) One vote only shall be allowed in respect of an estate, tenure or under-tenure belonging to two or more co-sharers

Vote for estate tenure, etc., held by two or more co-sharers

In order to ascertain whether this vote shall be taken as assenting or objecting to the adoption of the scheme, regard shall be had to the votes of the co-sharers individually, and account shall be taken of those only who actually vote

If the majority assent, a vote of assent shall be deemed to have been given in respect of the estate, tenure or under-tenure.

If the majority object, a vote of objection shall be deemed to have been given.

If the number assenting and the number objecting are equal, no vote

*(Part II — Drainage Scheme — Secs 15-18)*

shall be deemed to have been given in respect of such estate, tenure or under-tenure

Persons voting to specify the extent of their lands

15. The Commissioners may, in their discretion, refuse to take into account the vote of any person who, after being required to do so, fails to specify the extent of land held by him and the nature of the interest which he has in such land

Commissioners to decide who is entitled to vote.

16 (1) Whenever the right of any person to vote as a holder of any land shall be disputed, the Commissioners shall determine whether the vote of such person shall or shall not be accepted in respect of such land, and their determination shall be final for the purposes of section 17

Provided that any "recorded proprietor," as defined by section 3 of the Land Registration Act, 1876,[1] shall be entitled to vote in respect of any property of which he is the recorded proprietor

Ben Act 7 of 1876

Vote for property held by a minor or lunatic

(2) In the case of a landholder who is a proprietor disqualified to manage his own property under the provisions of the Court of Wards Act, 1879,[2] or any similar law for the time being in force, or who is a minor or a lunatic, the right to vote shall be exercised by any manager of the property of such disqualified proprietor or minor or lunatic, appointed by the Court of Wards, or by the Civil Court under the provisions of any law for the time being in force, or, where no such manager has been appointed, by any person who, in the opinion of the Commissioners, duly represents the interests of such minor or lunatic

Ben Act 9 of 1879

Case of landholder not found

(3) Where the holder of any land cannot be found, such land shall be altogether excluded in any computation that may be made in order to determine whether the landholders of not less than half of the area to be reclaimed or improved have assented to the adoption of the scheme.

If half of landholders agree, Commissioners to consider the scheme submitted.

17 If the landholders of not less than half of the area to be reclaimed or improved, ascertained as above provided, shall have assented to the adoption of the scheme, and not otherwise, the Commissioners shall proceed to consider such scheme, together with the plans and estimates for carrying out the same, and shall further consider such objections as have been made thereto, and may adopt such schemes, [3] plans and estimates or may alter and modify the same and adopt the scheme, plans and estimates so altered or modified, or may disapprove or reject the same.

Power to

18. If the landholders of half of the area to be reclaimed and improved do

[1] Printed in Vol IV of this Code.

[2] Printed *ante*, p. 215.

[3] *Sic. Read scheme*

of 1880 ]

## DRAINAGE ACT, 1880

*(Part II — Drainage Scheme — Secs 19-21)*

not assent to such scheme, but the landholders of half the area to be affected by some portion of such scheme assent thereto, the Commissioners may re-submit such portion of the scheme to the Lieutenant-Governor, and may, with his approval, proceed thereupon in manner aforesaid

proceed with  
portion of  
scheme

19 If the Commissioners adopt such scheme, plans and estimates, or any modification or alteration thereof, they shall, within one month after such scheme, plans and estimates, or some modification or alteration thereof, have been adopted by them, cause the same to be laid before the Lieutenant-Governor,

Scheme  
approved by  
Commissioners  
to be laid  
before the  
Lieutenant-  
Governor

and the Lieutenant-Governor may sanction the scheme, plans and estimates so adopted, or any portion thereof, as to him shall seem fit

20 (1) The Commissioners may, with the previous assent of the Lieutenant-Governor, at any time re-consider any scheme, plans or estimates adopted by them, and add to, alter or modify the same,

Power to re-  
consider  
scheme and  
modify it

and, when any addition, alteration or modification has been adopted by them, they shall cause the same to be laid before the Lieutenant-Governor.

The Lieutenant-Governor may sanction such addition, alteration or modification, or any portion thereof, as he may think fit,

and, thenceforth the provisions of this Act shall apply to such addition, alteration or modification as if it had been a portion of the original scheme, plans or estimates, and every such addition, alteration or modification, after it has been adopted, shall be published by the Commissioners as to them shall seem fit

No such addition, alteration or modification shall be adopted at a meeting at which the majority of the members present are not qualified as provided by section 4.

(2) No addition, alteration or modification under clause (1), to or of any scheme which affects any lands other than those which would be affected by some scheme theretofore published, shall be adopted by the Commissioners until the same has been published for not less than fifteen days, according to the provisions of section 12, in every village in which may be situate any portion of the lands to be affected by such addition, alteration or modification,

Publication  
of modified  
scheme

nor shall any such addition, alteration or modification be adopted unless the landholders of not less than half the entire area to be affected by the scheme as so added to, altered or modified assent to the same.

21. When the Lieutenant-Governor has sanctioned any scheme, plans and estimates as aforesaid, or some portion thereof, he may direct proceedings

Powers for  
the acquisition  
of land

*(Part II — Drainage Scheme — Secs 22-24)*

to be taken under the provisions of the Land Acquisition Act, 1870, or any 10 of 1870 other law [1] for the time being in force for the acquisition of land for public purposes, in order to obtain any land likely to be required for the works mentioned in such sanctioned scheme, plans and estimates, or any portion thereof

Lieutenant Governor may order scheme to be carried out

22 The Lieutenant-Governor may, if he thinks fit, order the works specified in such sanctioned scheme, plans and estimate, or portion thereof, to be executed by an officer to be thereunto appointed by the Lieutenant-Governor, and may, subject to the sanction of the Governor General of India in Council, order the advance from the public funds of such sum of money as may be required for the purpose of making such improvements,

and such officer may cause the works specified in such scheme and plans to be executed, and for that purpose may by himself, his agents and workmen enter into or upon any lands and perform such works thereupon as may be required

Power to Lieutenant Governor to modify scheme

23. The Lieutenant-Governor may, at any time after the said works have been commenced, by an order sanction any alteration or modification of such scheme or plan suggested to him by the officer in charge of such works, if after communication with the Commissioners it shall appear to him that by such alteration or modification the general character and scope of the scheme will not be altered, nor greater expenditure incurred thereon than would be incurred in the scheme as originally sanctioned,

and, after such sanction, such alteration or modification shall be taken to be a portion of the scheme adopted by the Commissioners, in substitution for the portion of such scheme thereby altered,

and every such alteration or modification shall be published by the Commissioners as to them shall seem fit

Claims to compensation for damage caused in carrying out scheme or works.

24. (1) Any person who alleges that damage has been caused to his property by any scheme or works commenced or carried out under this Act may, at any time before the expiry of the three years mentioned in clause (1) of section 28, prefer to the Commissioners a claim for compensation in respect of such damage actually caused, and of all future damage likely to be caused, to such property by such scheme or works.

Compensation to be assessed by the Commissioners.

The Commissioners shall duly consider any such claim, and, if they are satisfied that such damage has been caused or is likely to be caused, they shall assess such compensation as to them appears fair and reasonable.

[1] See now the Land Acquisition Act, 1894 (1 of 1894), which repeals and re-enacts the Act of 1870. The Act of 1894 is printed in the General Acts, 1891-98, Ed. 1899, p. 100



of 1880 ]

DRAINAGE ACT, 1880

*(Part III — Expenditure and Apportionment — Sec. 25)*

If such person agrees to accept the amount so assessed, the same shall be paid to him

10 of 1870

If he do not agree to accept such amount, the Commissioners shall make a reference to the Civil Court in the manner in which a Collector is empowered to make a reference by section 15 of the Land Acquisition Act, 1870,[1] and the provisions of Part III of the said Act shall apply to any reference so made.

Reference to Civil Court if amount assessed be not accepted.

(2) When the persons interested in such property, to which damage has been caused as aforesaid, agree to accept the amount of compensation assessed by the Commissioners, but a dispute arises as to the apportionment of the same or any part thereof,

Reference to Civil Court where amount of compensation agreed to or settled by Court, but dispute as to its apportionment

or when the amount of compensation has been settled by the Court on a reference under clause (1) of this section, and a similar dispute arises,

the Commissioners shall refer such dispute to the decision of the Civil Court,

10 of 1870

and the provisions of Part IV of the said Land Acquisition Act[1] shall apply to any reference so made.

(3) When the amount of compensation assessed by the Commissioners does not exceed one thousand rupees, any reference made under the said clause (1) may be transferred by the principal Civil Court of original jurisdiction of the district to any Subordinate Judge in the same district, and such Subordinate Judge shall have power to hear and dispose of the same,

Reference may in certain cases be transferred to Subordinate Judge or Munsif for disposal

and any reference made under clause (2) of this section may be transferred by such principal Civil Court to any Munsif in the same district, and such Munsif shall have power to hear and dispose of the same.

## PART III.

## EXPENDITURE AND APPORTIONMENT.

25. All amounts paid as compensation for any lands taken for the purposes of this Act, or for damage inflicted in carrying out any scheme or works under this Act, or as salaries of officers, servants or establishments, or for surveys or valuations (whether antecedent or subsequent to the preparation of the scheme and plans), and all amounts otherwise duly expended in carrying out the purposes of this Act, shall be included in, and deemed to constitute

Cost of compensation, etc., to be deemed part of expense of construction. Such expense may be defrayed by advances

[1] These references to Act 10 of 1870 should now be construed as references to the Land Acquisition Act, 1894 (1 of 1894),—see s. 2 (3) of the latter Act, in the General Acts, 1891-98, Ed. 1899, p. 101.

## (Part III — Expenditure and Apportionment — Secs 26-28)

from the  
public funds

the cost of, construction of the works, and may be defrayed by advances from the public funds as provided by section 22

Interest to be  
charged on  
such ad-  
vances

[1] 26 Interest shall be charged on all such advances until the same have been recovered

Rate of  
interest, and  
barring of  
compound  
interest

[1] 26A. (1) In every case in which the charging of interest is authorised by this Act, the rate chargeable shall be four *per centum per annum*

(2) No compound interest shall be charged in any case

*Explanation* — The interest recoverable from a tenant under section 42, clause (b), section 43, clause (b), section 44 or section 44A shall not be deemed to be "compound interest" within the meaning of this section, although it includes simple interest upon interest which has been paid by a landholder or superior tenant in pursuance of this Act

Reports to be  
made and  
expenditure  
certified

27. The officer in charge of the said works shall, until the same shall be finally completed, once in every three months make a detailed report to the Commissioners of the progress of such works and the expenditure thereupon from the day up to which the next preceding report shall have been brought down,

and the Examiner of Public Works Accounts to the Government of Bengal, or some other officer authorized in that behalf by the Lieutenant-Governor, shall from time to time certify the sums advanced in accordance with the provisions of section 25, and the dates of such advances,

and every such certificate shall be final and conclusive evidence in a Civil Court, or in any proceedings under this Act, of the sums therein stated to have been advanced having been so advanced, and of the dates upon which they were respectively so advanced

28. (1) The officer in charge of the works shall, as soon as they have been completed, certify such completion to the Commissioners,

and the Commissioners shall, upon the expiry of three years from such completion being so certified to them, proceed to classify all the lands benefited by the works according to the degree of benefit conferred, and in such classification they shall distinguish the improved lands from the reclaimed lands.

It shall be lawful for the Commissioners at any time during such three years to make such inspections of the lands, and such surveys thereof, and otherwise to collect such information, as shall in their opinion conduce to the making of such classification and of the apportionment hereinafter mentioned.

[1] These sections 26 and 26A were substituted for the original s 26 by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 3, *post*, p. 393.

Commis-  
sioners upon  
expiry of  
three years  
from comple-  
tion report to  
classify lands  
benefited by  
the works,  
distinguish-  
ing between  
improved  
lands and  
reclaimed  
lands

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*(Part III — Expenditure and Apportionment — Secs 30-32)*

(2) The Commissioners shall, after making such classification, proceed further to apportion the total cost of construction, together with [1] [interest] upon the improved lands and reclaimed lands, and shall draw up a statement showing the amount payable to the Collector by each landholder—

(a) in respect of his improved lands, if any, and

(b) in respect of his reclaimed lands, if any,

Cost of construction, with interest, to be apportioned upon the improved lands and reclaimed lands.

In making this apportionment the Commissioners shall, as far as may be possible, make payable in respect of each plot or field of improved land a sum not exceeding the amount of the increased capitalized value which, in the opinion of the Commissioners, has been conferred on such land by the works

Amount payable for the improved lands not to exceed value of improvement

29 [Adjustment of excess or deficient payments of interest] Rep by the Bengal Drainage (Amendment) Act, 1902 (Ben Act 2 of 1902), s 5

30. Whenever any land, in respect of which any sum is apportioned as payable under the provisions of section \* \* [2] 28, forms part of a tenure, or of a tenure and of an under-tenure, it shall be lawful for the Commissioners to declare whether the holders of the estate, of the tenure or of the under-tenure shall be deemed to be the landholders liable to pay to the Collector the sum apportioned as payable in respect of such land

When the land is part of a tenure, etc., Commissioners may declare who shall be deemed liable as landholders

31 The total sum so made payable in respect of the improved lands of any one landholder, and the total sum so made payable in respect of the reclaimed lands of any one landholder, with interest \* \* \* \* \* [3] from the date of apportionment, \* \* \* \* \* [4] shall be a first charge upon such improved lands and upon such reclaimed lands respectively

Amounts made payable to be a charge upon the improved lands and reclaimed lands respectively Secretary of State for India in Council to have a perpetual lien for their recovery Commissioners to

Such charge shall not be avoided by the sale of such lands, or of any estate, tenure or under-tenure within which they are included, for arrears of revenue or rent.

32 The Commissioners shall, so soon as conveniently may be after having apportioned the sums to be payable by the holders of the lands of any village

[1] The word "interest" in s 28 (2) was substituted for the words and figures "the interest mentioned in section 26" by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s 4, *post*, p 393.

[2] The figures and word "25 or," which were repealed by s 5 of the same Act, are omitted

[3] The words "upon such sums at five per centum per annum," which were repealed by s 5 of the same Act, are omitted.

[4] The words and figures "and any interest payable under section 29, and any interest payable under clause (1) of section 26, but not paid or recovered before the apportionment under section 28," which were repealed by s. 5 of the same Act, are omitted.

(Part III — *Expenditure and Apportionment* — Secs 33, 34)

report appor-  
tionment

respectively, make and publish a report describing the several lands in respect of which they have declared such sums to be payable, the names of the respective holders thereof who have been made liable to pay the same to the Collector, and the sum payable by each in respect of the same

Every such report shall distinguish between the reclaimed lands and the improved lands, and shall classify the latter according to the extent of the improvement

A copy of such report shall be sent through the Collector to the Commissioner of the division, for confirmation by such Commissioner

In default of  
Commissioners, officer  
appointed by  
Lieutenant  
Governor to  
make appor-  
tionment and  
report

33 If the Commissioners shall, for the space of three months after the completion of the entire works has been certified to them as aforesaid, neglect or refuse to proceed with the apportionment of the sums payable as aforesaid, or to make such report as aforesaid,

or, for the space of two months after any report and apportionment shall have been returned to them for further consideration and revision under the provisions hereinafter contained, neglect or refuse to proceed to such further consideration and revision as is required,

the Collector may serve them with a notice requiring them to proceed as aforesaid,

and, if for one month after service of such notice they neglect so to proceed, the Lieutenant-Governor may appoint such officer or officers as to him shall seem fit, to make or consider and revise such apportionment and report, and to do all or any of the subsequent acts which the Commissioners are hereby required or empowered to do in respect of such apportionment and report,

and every apportionment and report so made or revised, and every such act so done, shall have the same force and effect as if the same had been made, revised or done by the Commissioners

Report to be  
published.

34 Whenever any apportionment and report have been made in pursuance of the provisions hereinbefore contained, the Commissioners shall cause such report to be published by affixing in every village in which any lands mentioned therein are situate a copy of so much thereof as relates to such lands, and also a like copy at the office of the Collector and of the Sub-divisional Officer, and at every Munsif's Court within whose jurisdiction, and at every police-thana within the limits of which, such village, or any part thereof, is situate.

The fact of such apportionment and report having been made, and such copies having been affixed, shall also be notified by beat of drum in every such village.

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*(Part III — Expenditure and Apportionment — Secs 35, 36)*

35 Any person who may deem himself to be aggrieved by any such apportionment may, within one month after such report has been published, prefer an objection before the Commissioners, and the Commissioners shall be bound to inquire into and decide upon such objection ,

Appeal  
against apportionment.

and any person who is dissatisfied with such decision may, within one month from the date of such decision, appeal to the Commissioner of the division against such apportionment ,

and such Commissioner shall cause notice of the day fixed for the hearing of such appeal to be published by affixing the same in the office of the Collector and of the Sub-divisional Officer and in a conspicuous place in every village, and in the Court of every Munsif within whose jurisdiction, and at every police thana within the limits of which, any of the lands mentioned in such report are situate

Such Commissioner shall hear such appeal and the objections thereto of all persons interested, and may confirm such apportionment, or may revise and alter the same as to him shall seem fit, or may return the same to the Commissioners for further consideration and revision

Provided that the total sum apportioned by every apportionment and report so revised and altered, as payable in respect of all the lands improved or reclaimed by the works, shall not be less than the total cost of the construction of such works within the meaning of section 25

Every such apportionment and report, when revised or altered, shall, so far as the same has been altered, be published, and be liable to appeal, in like manner as the original apportionment and report

The decision of the Commissioner of the division upon any appeal under this section shall be final.

36. Whenever the Commissioner of the division shall confirm any apportionment and report, or whenever one month shall have elapsed from the publication of any report without any appeal therefrom having been preferred,

Final determination of apportionment.

he shall pass an order [1] declaring the sums payable in respect of the lands respectively and the persons liable to pay the same to be determined, and shall cause such order to be published in such manner as to him shall seem fit.

[1] As to the revision of past orders under s. 36 in respect of the Howrah and Rajapur drainage schemes, in order to reduce charges for interest and other charges, see the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), ss. 15 and 19, *post*, pp. 395 and 396.

Power to add  
to, or alter,  
declaration as  
to names of  
persons liable  
to pay

[1] 36A. (1) If any order passed under section 36, so far as it declares what persons are liable to pay any sum under this Act in respect of any land, appears at any time to require revision—

(a) by reason of the omission of the name of any co-sharer of such land,  
or

(b) by reason of any change having taken place in the ownership or joint ownership of such land, or

(c) for any other substantial reason,

the Collector may, on the application of any holder of the land, or of his own motion, and after such inquiry and upon such conditions (if any) as he may think proper, add to or alter such order

Provided that every person whose name is so added or who is materially affected by any such alteration has had an opportunity of being heard by the Collector

(2) Any person who is dissatisfied with any addition or alteration made under sub-section (1) may, within one month after the same was made, appeal to the Commissioner of the division

(3) The Commissioner shall cause notice of the day fixed for the hearing of such appeal to be published in the manner prescribed by section 35, and shall, on the day so fixed, hear such appeal and all objections thereto advanced by persons interested and may confirm or revise the addition or alteration, or may remit the case to the Collector for further consideration and revision.

(4) The decision of the Commissioner on any such appeal shall be final

(5) Every addition and alteration made under this section shall be published, in such manner as to the Collector may seem fit, after the expiration of one month—

(i) from the time when the addition or alteration was made, or

(ii) if any appeal has been preferred under sub-section (2), from the decision of the appeal,

and the addition or alteration shall take effect from the date of such publication; and proceedings may thereupon be taken under this Act, in respect of such addition or alteration, as if a new order embodying it had been made under section 36.

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(Part IV—Recovery of sums due to the Collector—Secs 37-39)

## PART IV

## RECOVERY OF SUMS DUE TO THE COLLECTOR

37 As soon as any apportionment has been determined as aforesaid, the Collector may cause a notice in the form in Schedule B hereto annexed to be served upon any landholder who has not paid the sum payable by him

Collector to serve notice of apportionment, requiring payment or engagement to pay

Such notice shall require such landholder, within one month from the date of [1] [the service thereof] upon him, to pay such sum, with interest [2] [up to the day of payment,] or to enter into an engagement for the payment, by instalments extending over a period of not more than ten years, of such sum, together with interest \* \* \* [3] on all instalments remaining unpaid at the date of such payment

38 If any landholder fails to discharge the sum made payable in respect of his improved lands or in respect of his reclaimed lands, or fails to enter into an engagement for the payment thereof as in this Act hereafter provided, or, having entered into such an engagement, fails to discharge any instalment payable thereunder, such sum or such instalment, together with interest \* \* \* [4], shall be recoverable under the provisions of any law [5] for the time being in force for the recovery of public demands.

If amount not discharged, the Collector may recover it as a public demand

39 If the Collector thinks it inexpedient to proceed under the provisions of section 38, or, having so proceeded shall have failed to realize the sum due, he may, with the sanction of the Board of Revenue, raise the amount necessary to discharge the sum or instalment remaining unpaid—

Collector may also with sanction of Board of Revenue raise unpaid amount by leasing or mortgaging the improved or reclaimed lands.

(a) by letting in perpetuity or for a term, on payment of a premium equivalent to such amount, the whole or any part of such improved lands or reclaimed lands,

(b) by mortgaging the whole or any part of such improved lands or reclaimed lands,

(c) by letting in farm or managing by himself or another the whole or any part of such improved lands or reclaimed lands, or

(d) partly by one of such modes and partly by another or others of them

[1] The words "the service thereof" in s. 37 were substituted for the words "its service" by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 7 (4), *post*, p. 393

[2] The words "up to the day of payment" in s. 37 were substituted for the words "at the rate of five per centum per annum" by the same section.

[3] The words "at the said rate", in s. 37, which were repealed by s. 7 (2) of the same Act, are omitted

[4] The words "thereupon at five per centum per annum", in s. 38, which were repealed by s. 5 of the same Act, are omitted.

[5] See now the Public Demands Recovery Act, 1895 (Ben. Act 1 of 1895), in Vol IV of this Code

*(Part IV—Recovery of sums due to the Collector—Part IVA—  
Recovery of share of payments from Co-sharers—Secs 40-41A)*

For the purposes of this section, the Collector may exercise all the powers of the owner of such improved or reclaimed lands, and his signature shall be a good and sufficient signature to any document necessary to carry into effect the said purposes

Recovery of  
unrealised  
portion of  
charge

40 In case the Collector certifies that any sum payable as hereinbefore provided cannot be realised as provided by section 38 or 39, so much of such sum as shall not have been so realised shall be a charge upon any profits that may accrue from the property vested in the Collector under the provisions of section 47

Power to  
repay advances

41 Any landholder who has entered into an engagement for the repayment of any sum apportioned as aforesaid may at any time repay [1] to the Collector the entire amount of the principal sum which shall be then remaining due, and interest thereupon up to the day of payment, and thenceforth the said engagement shall be terminated, and all liabilities in respect thereof for principal or interest shall determine.

## [2] PART IVA

### RECOVERY OF SHARE OF PAYMENTS FROM CO SHARERS

Power to re-  
cover share of  
payments  
from co  
sharers

[3] 41A. When any landholder has made any payment under the foregoing provisions of this Act in respect of land which he holds jointly with other persons, and such payment exceeds the amount which is proportionate to his individual interest in the land, he may—

- (a) recover from his co-sharers, respectively, such contributions towards such payment as are proportionate to their individual interests in the land, either—
- (i) in the same manner in which arrears of rent are recoverable under the Bengal Tenancy Act, 1885, [4] and under similar penalties, or, 8 of 1885.
- (ii) if such co-sharers have been declared by any order passed under

[1] As to refunding or crediting to landholders reductions to be made in past charges in respect of the Howrah and Rajapur drainage schemes, see the Bengal Drainage (Amendment) Act, 1902 (Ben Act 2 of 1902), ss 16 and 19, *post*, pp 395 and 396

[2] Part IV A was inserted by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 8, *post*, p 394.

[3] As to the application of s. 41A for the recovery of money paid for the maintenance of works, see s 48 (1), *post*, p 368.

As to the application of s 41A to certain claims which had already accrued in respect of the Howrah and Rajapur drainage schemes, see the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 14, *post*, p 394.

[4] Printed in Vol. II of this Code



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*(Part V—Recovery by Landholders or Superior Tenants of the cost of the works from persons holding land under them—Secs 42, 43)*

section 36 or revised under section 36A to be liable to pay—upon application to the Collector as hereinafter provided, or

(b) take credit for such contributions as aforesaid in any adjustment of accounts between himself and his co-sharers

## PART V

## RECOVERY BY LANDHOLDERS OR SUPERIOR TENANTS OF THE COST OF THE WORKS FROM PERSONS HOLDING LAND UNDER THEM.

42 Every landholder who has been charged with any sum by a report published as aforesaid may, after he has paid or engaged to pay the same,— Proprietor may recover from subordinate tenants

(a) proceed under any law for the time being in force to enhance the rents of any person holding immediately from him any land the productive powers of which have been increased by any works carried out under this Act provided that any such person may at his option elect to pay under clause (b) of this section, or

(b) recover such sum or any part thereof, according to the proportions hereinafter provided, with interest \* \* \* [1] from the date of payment by him of any portion thereof, from the persons holding immediately from him lands in respect of which such sum has been declared payable, and which have been benefited by any scheme or works carried out under this Act.

(c) The sum recoverable by such landholder from each such person under clause (b) in respect of the lands of each class shall bear the same proportion to the sum charged upon such landholder in respect of all lands of that class as the area of the lands of that class which are held by such person bears to the area of the lands of the same class in respect of which the landholder has been charged. No person from whom a landholder is authorized to recover any sum under this section shall be liable to pay in any one year more than one-tenth part of the total sum so recoverable from him, and no person shall be liable to pay in one year more than the increased annual value of the lands in respect of which the payment is made

43. Any superior tenant, who has made any payment to a landholder under the provisions of clause (b) of section 42, may— Recovery by superior tenant

(a) proceed under any law for the time being in force to enhance the rents of any person holding directly from him lands the productive

[1] The words "at the rate of five per centum per annum," in s. 42 (b), which were repealed by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 5, are omitted.

(Part V—Recovery by Landholders or Superior Tenants of the cost of the works from persons holding land under them—Sec 44)

powers of which have been increased by any works carried out under this Act provided that any such person may at his option elect to pay under clause (b) of this section, or

- (b) recover the sum or part of the sum which has been so paid by him according to the proportions and subject to the rules laid down in clause (c) of section 42, with interest \* \* \* [1] from the date of payment by him of any portion thereof, from the persons holding directly from him lands in respect of which the payment has been made, and which have been benefited by any scheme or works carried out under this Act

Mode and  
time of pay-  
ment

44 (1) The sum payable to a landholder or superior tenant in any one year under clause (b) of section 42 or under clause (b) of section 43 shall be payable by equal instalments upon the days appointed for the payment to such landholder or superior tenant of the rent of the lands concerned, and shall be recoverable as if the same were an arrear of rent

Provision in  
case of dispute  
as to the  
amount to be  
paid

(2) If such landholder or superior tenant and any person holding lands directly from him cannot agree as to the amount which such person shall pay, such landholder or superior tenant may serve such person, through the Collector, with a notice setting forth the amount which he claims, and requiring such person, within one month after the service of such notice, to pay the amount claimed or enter into an engagement for the payment thereof by instalments extending over a period of not more than ten years, or appeal before the Collector and object.

Collector to  
decide objec-  
tion

(3) If such person do not within the said period of one month appear and object, the amount set forth in such notice shall be recoverable, with interest \* \* \* [2]

If such person appear and object, the Collector shall dispose of such objection, and his decision shall be final.

The Collector may direct that any sum of money payable under his decision, together with any cost [3] awarded by him, be paid by instalments extending over a period of not more than ten years.

The provisions of clause (1) of this section shall apply to every sum payable according to an order of the Collector passed under this section

[1] The words "at the rate of five per centum per annum," in s. 43 (b), which were repealed by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 5, are omitted

[2] The words "at five per centum per annum," in s. 44 (3), which were repealed by the same section, are omitted.

[3] See *Head costs*.

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(Part V—*Recovery by Landholders or Superior Tenants of the cost of the works from persons holding land under them—Secs 44A, 44B*)

[1] 44A (1) if any landholder or superior tenant has made any payment under the foregoing provisions of this Act in respect of lands which are or were held by tenants immediately from him, and which have been benefited by any scheme or works carried out under this Act,

Recovery, under the certificate procedure, of payments made in respect of land held by tenants

and if he has not enhanced the rent of such tenants under section 42, clause (a), or section 43, clause (a), or recovered under section 42, clause (b), section 43, clause (b), or section 44 the sums due to him,

he may, upon application to the Collector as hereinafter provided, but subject to the provisions of sub-section (1) of section 44 as to instalments, recover from such tenants, such sums as he may be entitled to according to the proportion and under the rules laid down in clause (c) of section 42, with interest from the date of such payment

(2) An application in respect of a payment may be made under this section by a landholder who was declared by an order passed under section 36 to be liable to make such payment, although his name has been removed, by an order made under section 36A, from the list of persons declared liable to make payments

(3) If any tenants referred to in sub-section (1) have transferred their tenancies, the sums referred to in that sub-section may be recovered thereunder—

(a) from the said tenants for the period during which they occupied the benefited land since the carrying out of the said scheme or works, or

(b) from the tenants in possession

[2] 44B Notwithstanding anything hereinbefore contained no sum shall be recoverable under section 42, clause (b), section 43, clause (b), section 44 or section 44A, in respect of any lands which have been benefited by any scheme or works carried out under this Act, when, in consequence of such scheme or works—

Bar to recovery of money from tenants in certain cases.

(a) the rent of such lands has been increased, or

(b) rent has for the first time been imposed on such lands

[1] Section 44A was inserted by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 9, *post*, p. 394

As to the application of s. 44A for the recovery of money paid for the maintenance of works, see s. 48 (1), *post*, p. 368

As to the application of s. 44A to certain claims which had already accrued in respect of the Howrah and Rajapur drainage schemes, see the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 14, *post*, p. 394.

[2] Section 44B was inserted by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 9, *post*, p. 394.

(Part V—Recovery by Landholders or Superior Tenants of the cost of the works from persons holding land under them—Part VI—Miscellaneous—Secs 45-48)

Proviso

45 No person from whom any sum has been recovered under clause (b) of section 42 or under clause (b) of section 43 [1] [or under section 44A] shall be subject to any claim for enhanced rent on account of the benefit caused by the works to his lands

## PART VI

### MISCELLANEOUS

Drainage works to be subject to the laws relating to embankments

46. All outlets and water channels, natural or artificial, which shall be altered, enlarged, excavated or cut under the provisions of this Act, and the construction and maintenance of embankments and of dams and works therein or connected therewith, shall, save as hereinafter provided, be subject to the law [2] for the time being in force regulating the construction and maintenance of public embankments and public rivers, channels and outlets.

Lands and works to be vested in Collector on behalf of Secretary of State

47. All lands which are taken under the provisions of this Act for the purpose of the construction of works therein or thereon, and all works constructed under the provisions of this Act, as well as all outlets, water-channels, embankments and dams so constructed, altered, enlarged, excavated or cut shall be vested in the Collector of the district for the time being, on behalf of the Secretary of State for India, in order to effectuate and maintain the objects of this Act,

and, to assist the Collector in the management of the same, the Lieutenant-Governor may appoint, or authorize the election by the landholders aforesaid of, a Committee consisting of not less than four or more than six persons being themselves holders of the lands reclaimed or improved.

Cost of maintenance of works.

48. (1) The expense of keeping in efficient order and repair any improvements or works effected under this Act shall be charged to the profits from the property vested in the Collector under section 47,

and, if such profits shall not suffice, the balance shall be paid to the

[1] These words and figures in square brackets in s 45 were inserted by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s 10, *post*, p 394

As to refunding or crediting to tenants reductions to be made in past charges in respect of the Howrah and Rajapur drainage schemes, *see* the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), ss. 17 to 19, *post*, p 396

[2] *See* the Acts printed under the heading "Embankments," *post*, p 400

Section 91 of the Bengal Embankment Act, 1882 (Ben. Act 2 of 1882), *post*, declares that nothing in that Act shall apply to any embankment, land or water-course which is under the operation of the present Act

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## (Part VI—Miscellaneous.—Sec 49)

Collector in the proportions of the original contribution by the holders for the time being of the land [1] which have been benefited by such works,

and all sums payable to the Collector under the provisions of this section shall be recoverable in the manner provided by section 38, or in the manner provided by section 39,

and every proprietor or other person who has paid any such sum may recover the same, or any part of the same, in the proportion and subject to the rules laid down in section 42 or 43 as the case may be, [2] [and for that purpose the procedure prescribed by section 41A or section 44A and sections 51B and 51C shall be applicable]

(2) Any such amount as is specified in section 25 which, from oversight or other cause, has been omitted from the apportionment and report made under section 32 or section 33, may be charged and recovered under the provisions of clause (1) of this section

Recovery of items omitted from apportionment.

(3) If, on the first day of January next before the last instalments payable under the provisions of section 36 are due, there is, after providing for the expense of keeping in efficient order and repair the improvements and works executed under this Act, a surplus of the profits from the property vested in the Collector under section 47,

Surplus profits from property vested in Collector under section 47 to be appropriated to payment of debt to Government.

such surplus, or as much thereof as will suffice, shall be appropriated to the liquidation of the said last instalments

Any landholder who has paid any such instalment in advance under the provisions of section 41 shall be entitled to a refund in proportion with interest at [3] [four] *per centum per annum*.

(4) The Lieutenant-Governor may at any time, in his discretion, direct that the total average annual expense, which over and above such profits as aforesaid is necessary to keep such improvements and works in efficient order and repair, be estimated, and that there be levied from such landholders, in lieu of all future contributions to the maintenance of such improvements and works such amount as, being invested in Government securities at the current rate of interest, shall yield a sum equal to such average annual expense. The provisions of sections 31, 38 and 39 shall apply to such capitalized amount

Cost of maintenance may be capitalized, and the capitalized amount levied.

49. The Commissioners, the Commissioner of the division, and every Powers for

[1] *Sic* Read lands

[2] These words and figures in square brackets, in s 48 (1), were added by the Bengal Drainage (Amendment) Act, 1902 (Ben Act 2 of 1902), s. 11 (1), *post*, p 394

[3] The word "four" in s. 48 (3) was substituted for the word "five" by s 11 (2) of the same Act, *post*, p 394.

## (Part VI.—Miscellaneous.—Secs. 50-51B)

taking evi-  
dence

officer appointed by the Lieutenant-Governor under section 33, shall have the powers conferred on Civil Courts by the Code of Civil Procedure [1] for 10 of 1877 compelling the attendance of witnesses and the production of evidence, and for examining witnesses in any inquiry or appeal which they or he may be empowered to make or entertain under the provisions of this Act

Rent free  
lands may be  
deemed  
subordinate  
tenures.

50 Any land held free of rent or revenue, being less than one hundred standard bighas in extent, and not being a property entered on the Collector's general register of revenue-free lands, may, for the purposes of this Act, be deemed to form a tenure or under-tenure held immediately from some landholder, and the Commissioners shall determine who shall be deemed to be the landholder in respect of such tenure

Provided that any holder of such land, who may deposit the cost of survey of his land at a rate to be approved by the Commissioners and calculated on the area claimed by him, shall be entitled to be deemed a landholder, in respect of such lands, within the meaning of this Act

Sum payable  
by holder of  
rent free land  
to be payable  
in two  
instalments.

51. Wherever any land, as mentioned in the last preceding section, shall be deemed to form a tenure or under-tenure held immediately from a landholder as therein provided, every sum payable to the landholder in respect of such land in any one year shall be payable in two equal instalments on such dates as the Commissioner of the division may fix

Such Commissioner shall cause due notice to be given in the villages concerned of the dates so fixed by him

Recovery,  
under the  
certificate  
procedure, of  
payments  
made in  
respect of  
land held free  
of rent or  
revenue.

[2] 51A Any person who has been determined under section 50 to be the landholder in respect of land, held free of rent or revenue, which has benefited by any scheme or works carried out under this Act, and who has made any payment under the foregoing provisions of this Act in respect of such land, may, upon application to the Collector as hereinafter provided, but subject to the provisions of section 51, recover the amount of such payment from any person holding such land immediately below him

Further pro-  
visions as to

[2] 51B. (1) Every application to the Collector under section 41A for

[1] This reference to Act 10 of 1877 should now be read as applying to Act 14 of 1882—see s. 3 of the latter Act, in the General Acts, 1882-1884, Ed 1898, p 262

[2] Sections 51A and 51B were inserted by the Bengal Drainage (Amendment) Act, 1902 (Ben Act 2 of 1902), s 12, *post*, p 394

As to the application of ss 51A and 51B to certain claims which had already accrued in respect of the Howrah and Rajapur drainage schemes, see s 14, of the same Act, *post*, p 394

As to refunding or crediting to tenants reductions to be made in past charges in respect of those schemes, see ss. 17 to 19 of the same Act, *post*, p 396.

As to the application of s. 51B for the recovery of money paid for the maintenance of works, see s. 49 (1), *ante*, p. 368.

of 1880 ]

## DRAINAGE ACT, 1880

*(Part VI—Miscellaneous—Sec 51B)*

the recovery of contributions from co-sharers towards a payment made by applications under section 41A, 44A or 51A  
 a landholder under the foregoing provisions of this Act must—

- (a) be made within six months after such payment was made, and
- (b) specify the amount of such payment, and the amount of such contributions due from each co-sharer

(2) Every application to the Collector under section 41A or section 51A for the recovery of sums due, from tenants of, or persons holding lands benefited by any scheme or works carried out under this Act, on account of any payment made by the applicant under the foregoing provisions of this Act, must—

- (c) be made within six months after such sums became due,
- (d) specify the amount of such payment, and the date on which it was made,
- (e) specify the amount of such sums due from each tenant or person holding land, and the date on which it became due, and
- (f) be accompanied by a declaration, signed by the applicant and stating—
  - (i) that he has not, on account of the said scheme or works, enhanced the rent, if any, payable in respect of the said lands or any of them, and
  - (ii) that he has not taken from such tenants or persons holding land, or any of them, any premium on account of such scheme or works

(3) Every application under section 41A, section 44A or section 51A must—

- (g) be signed and verified in the manner provided by sections 51 and 52 of the Code of Civil Procedure [1] for the signature and verification of plants,
- (h) be accompanied by a court-fee of eight annas, and
- (j) request the Collector to make a certificate authorizing the recovery of the said contributions or sums, as the case may be, under the Public Demands Recovery Act, 1895. [2]

(4) Every declaration made under clause (f) shall, for the purposes of section 199 [3] of the Indian Penal Code, be deemed to be a declaration which the Collector is authorized by law to receive as evidence.

14 of 1882

Ben Act I of 1895

45 of 1860.

[1] Printed in the General Acts, 1832-84, Ed. 1898, p. 283.

[2] Printed in Vol. IV of this Code.

[3] Printed in the General Acts, 1834-67, Ed. 1893, p. 224

(5) If the Collector at any time has reason to believe that any declaration accompanying an application as aforesaid, or any part thereof, is false, he may reject the application and leave the applicant to pursue his claim in a Civil Court

Grant of  
certificate,  
and effect  
thereof

[1] 51C (1) Upon receiving any such application, the Collector may, if he thinks fit, make a certificate as aforesaid

(2) Every such certificate shall have the same effect as a certificate made under section 7 of the said Public Demands Recovery Act, 1895[2], and the same notices shall be issued, and the same proceedings may be taken, with respect thereto, by the Certificate Officer, as in the case of a certificate made under that section

Ben Act I of  
1895

(3) The person in whose favour any such certificate is made shall be deemed to be the decree-holder for the amount mentioned in the certificate, and the person against whom the certificate is made shall be deemed to be the judgment-debtor for the said amount, and all proceedings taken by the Certificate Officer for the recovery of such amount shall be taken at the instance of the first mentioned person, and at his cost, and on his responsibility, and not otherwise

(4) If any person against whom any such certificate is made objects that the contributions or sums claimed by the person who applied for the certificate, are not legally due, or exceed the sums which the applicant could recover from him in a Civil Court as being payable in respect of his individual interest in the land, and if the Certificate Officer considers there is probable ground for such objection, the Certificate Officer may modify the certificate or, if he thinks fit, cancel the certificate and leave the applicant to pursue his claim in a Civil Court

Power of  
Collector to  
suspend re-  
covery of dues  
in case of  
failure of  
crops.

[3] 51D. (1) If, in any area benefited by any scheme or works carried out under this Act, there has occurred in any year a total or serious failure of crops, then, notwithstanding anything hereinbefore contained, the Collector may,

after such inquiry (if any) as he deems necessary, and with the previous sanction of the Commissioner of the division,

[1] Section 51C was inserted by the Bengal Drainage (Amendment) Act, 1902 (Ben Act 2 of 1902), s. 12, *post*, p. 394.

As to the application of the section for the recovery of money paid for the maintenance of works, see s. 48 (1), *ante*, p. 368

As to its application to certain claims which had already accrued in respect of the Howrah and Bajapur drainage schemes, see the Bengal Drainage (Amendment) Act, 1902 (Ben Act 2 of 1902), s. 14, *post*, p. 394.

[2] Printed in Vol. IV of this Code

[3] Section 51D was inserted by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 12, *post*, p. 394



of 1880 ]

DRAINAGE ACT, 1880

(Part VI—Miscellaneous—Secs 51E-52)

by written order, suspend for the whole or any part of that year, the recovery of all or any sums which are recoverable from landholders and tenants, respectively, in respect of such area under the foregoing provisions of this Act

(2) Every such order shall be published in the manner prescribed in section 12 for the publication of the notification referred to in that section

Ben Act 1 of  
1895

(3) When any such order has been duly published, all proceedings under the Public Demands Recovery Act, 1895, [1] and all suits by landholders or tenants, for the recovery of any sums to which such order relates, shall be stayed during the period specified in the order

[2] 51E An order duly made and published under section 51D shall not be questioned in any Civil or Revenue Court

Bar to jurisdiction of Courts in respect of order of suspension

[2] 51F. If any landholder or tenant, during any period specified in an order duly made and published under section 51D, collects any sums payable to him to which such order relates, then all sums payable by him to which such order relates may be recovered from him as if such order had not been made

Procedure when landholder or tenant collects dues during period of suspension

[2] 51G. When an order has been duly made and published under section 51D, suspending the recovery of any sums for any period, then, if such sums form part of a sum which is, in pursuance of this Act, payable by instalments, the period remaining for the payment of such instalments shall be extended by the period specified in such order, and no more than one instalment of the sum remaining due shall be payable in any succeeding year

Extension of period for payment of instalments when order of suspension made

[2] 51H When an order has been duly made and published under section 51D, suspending the recovery of any sums for any period, such period shall be excluded in computing the period of limitation prescribed for a suit or application for the recovery of such sums.

Extension of period of limitation, when order of suspension made

[2] 51J When an order has been duly made and published under section 51D, suspending the recovery of any sums for any period, then, notwithstanding anything hereinbefore contained, no interest shall accrue on such sums during such period.

Interest not to accrue during period of suspension.

52. All notices under this Act required to be served may be served, by delivering the same to the person to be served or by posting the

Service of notices.

[1] Printed in Vol. IV of this Code

[2] Sections 51E to 51J were inserted by the Bengal Drainage (Amendment) Act, 1902 (Ben Act 2 of 1902), s 12, *post*, p. 394.

(Part VI—Miscellaneous—Secs 53-56)

same upon the door of his dwelling-house, or, if such person cannot be found and his dwelling-house is not known, then by posting the same on some conspicuous part of the land to which such notice relates, and copies thereof at the Munsif's Court within whose jurisdiction, and the police-thana within the limits of which, such land is situate

Proceedings  
not to be  
invalidated  
by formal  
errors

53 No proceeding under this Act shall be defeated or invalidated by reason of any defect in the number or property of assenting landholders, nor by any defect or omission in the publication or service of any notification, notice or order, unless material injury is done to any person by such defect or omission,

and every order and report of the Commissioners, of the Collector and of any officer appointed by the Lieutenant Governor under section 33 shall be conclusive evidence that all notifications and notices hereby required as preliminary thereto had been duly published and served, and that all other preliminaries thereunto had been duly performed and, save as is hereinbefore provided, shall be final and conclusive.

Portion of  
scheme may  
be deemed  
separate  
scheme

54 The Lieutenant Governor may, by an order in writing, direct that any portion of a scheme adopted and ordered to be executed under this Act shall, for the purposes of this Act or for any such purposes, be deemed to be a separate scheme

Lieutenant  
Governor  
may empower  
other person  
to act for  
Collector

55 The Lieutenant-Governor may specially empower any person to do all or any acts, to discharge all or any functions and to exercise all or any powers which may be done, discharged or exercised by a Collector under this Act,

and, on any person being so specially empowered, such person may do all or any of such acts, discharge all or any of such functions, and exercise all or any of such powers, and such person shall be deemed to be the Collector for the purposes of the scheme in respect of which he is so especially empowered

Collector may  
delegate  
authority.

56. The Collector may, with the sanction of the Commissioner of the division, delegate to any Deputy, Assistant or Sub-Deputy Collector, or to any similar officer, the performance of any acts and the discharge of any functions which the said Collector may perform or discharge under this Act,

and upon such delegation such Deputy Collector or other officer may do any such acts and discharge any such functions, and may exercise any powers for the performance of the same which the Collector may exercise under this Act:

Provided that all acts done, functions discharged and powers exercised by such officer shall be done, discharged or exercised subject to the control and supervision of the Collector.

of 1880 ]

## DRAINAGE ACT, 1880

(Part VI—Miscellaneous—Part VII—Special provisions for works carried out under Bengal Act 5 of 1871—Secs 57 59)

57 Notwithstanding anything hereinbefore contained, all the proceedings of the Commissioners and of the Collector under this Act shall be subject to the general control and supervision of the Commissioner of the division Control of Commissioner.

58 The Lieutenant-Governor may, from time to time, make rules to regulate the following matters — Power to make, alter and cancel rules

(a) the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter,

(b) the person by whom, [1] the time, place or manner at or in which anything for the doing of which provision is made in this Act shall be done,

(c) and generally to carry out the provisions in this Act

The Lieutenant-Governor may from time to time alter or cancel any rules so made

Such rules, alterations and cancellation shall be published in the Calcutta Gazette, and shall thereupon have the force of law Publication of rules

## PART VII

## SPECIAL PROVISIONS FOR WORKS CARRIED OUT UNDER

## BENGAL ACT 5 OF 1871. [2]

59 The following portions of this Act shall apply to any scheme or works carried out under the provisions of Bengal Act 5 of 1871 [2], that is to say — Portions of this Act applicable to works carried out under Bengal Act 5 of 1871.

(a) as to the method of realizing sums due on account of the cost of the works—sections 31, 38, 39 and 40;

(b) as to the recovery by landholders or superior tenants of the cost of the works from persons holding land under them—Part V,

(c) as to other matters—Part VI.

60 to 63 [Revision of apportionment of cost of scheme or works carried out under Bengal Act 5 of 1871; Commissioners to be guided in making such revision by certain provisions of this Act; Power of Commissioners to increase or reduce apportionment, Appeal; Finality of revised apportionment, Realization of sums due thereunder.] Rep. by the Repealing and Amending Act, 1903 (1 of 1903).

[1] Sic. Read and the time.

[2] Ben Act 5 of 1871 was repealed by this Act—see s. 2, ante, p. 348.

## THE BENGAL DRAINAGE ACT, 1880 [Ben Act 6 of 1880]

*(Schedule A)*SCHEDULE A *(referred to in section 12)*

## BENGAL DRAINAGE ACT, 1880

*To all whom it may concern.*

TAKE notice that it is proposed to drain and improve certain lands in the village of \_\_\_\_\_, pargana \_\_\_\_\_. Plans and provisional estimates of the works proposed are now lodged in \_\_\_\_\_ and may be inspected by any person interested on any of the days and at any of the times specified below till the day of \_\_\_\_\_ next *(Here specify the days and hours at which the plans and the estimates will be open to inspection)*

All proprietors of estates paying revenue direct to Government of which any lands may be affected by the proposed drainage and improvement,

all owners of revenue free lands borne on the Collector's general register of revenue-free lands, which may be so affected,

all persons having permanent rent-paying interests in tenures, under-tenures, or lands extending to not less than one hundred standard bighas to be so affected,

and all persons having permanent rent-free interest in tenures, under-tenures and lands to be so affected,

are hereby called upon to inspect the said plans and estimates

Those who wish the works to be carried out and are willing to bear their proportion of the cost thereof are requested to send to the Drainage Commissioners their assent in writing, signifying therein, so far as possible, the nature and extent of their interest in such land, on or before the day of 18 \_\_\_\_\_

Those who have any objection to the execution of the said works are required to send in their objection in writing to the said Commissioners on or before the said day.

All persons who are hereby called upon to give their assent or express their objections in writing are warned that under the law the Commissioners are not bound to recognize any such assent or objection unless the person making the same specifies the extent and portion of the land which he holds and the tenure or interest which he has in the same.

*Collector, for the Drainage  
Commissioners.*

[Ben Act 6 of 1880] THE BENGAL DRAINAGE ACT, 1880

(Schedule B)

[Ben Act 8 of 1895] THE BENGAL SANITARY DRAINAGE ACT, 1895

SCHEDULE B (*referred to in section 37*)

BENGAL DRAINAGE ACT, 1880

To

Take notice that the Drainage Commissioners have apportioned against you the sum of as your contribution in respect of the lands of , and that you are hereby required, within one month from the date of the service of this notice, to pay to me the said sum of Rs , together with interest at the rate of [1] [four] *per centum per annum* from the day of , or to enter into an engagement for the payment of the same by instalments extending over, a period of not more than ten years [2] [together with simple interest, at the rate of four *per centum per annum*, on all instalments remaining unpaid at the date of each such payment]

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THE BENGAL SANITARY DRAINAGE ACT, 1895

(BENGAL ACT 8 OF 1895)

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[1] The word "four" in Schedule B was substituted for the word "five" by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s 13 (1), *post*, p 394

[2] These words in square brackets in Schedule B were added by s 13 (2) of the same Act

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## SCHEDULE.

of 1895 ]

SANITARY DRAINAGE ACT, 1895

*(Part I—Chapter I.—Preliminary—Secs 1, 2)*

## THE BENGAL SANITARY DRAINAGE ACT, 1895

(BENGAL ACT 8 OF 1895) [1]

[30th October, 1895]

An Act to facilitate the construction of drainage works for improving the sanitary condition of local areas.

WHEREAS it is expedient to facilitate the construction of drainage works for improving the sanitary condition of local areas within the territories administered by the Lieutenant-Governor of Bengal, and to lay down a procedure therefor, other than that provided by section 37B of the Bengal Municipal Act, 1884 [2], It is enacted as follows —

Ben Act 3 of  
1884

## PART I

## CHAPTER I

## PRELIMINARY.

1. (1) This Act may be called the Bengal Sanitary Drainage Act, 1895 Short title
- (2) Except as hereinafter otherwise provided, [3] it shall extend to all the and extent.  
territories administered by the Lieutenant-Governor of Bengal which are not included within the limits of any municipality
- (3) [Commencement] *Rep. by the Repealing and Amending Act, 1903 (1 of 1903)*
2. In this Act, unless there be something repugnant in the subject or Definitions context,—
  - (a) “cultivating raiyat” shall have the meaning attached to it in the Cess Act, 9 (B C) of 1880 [4]

[1] LEGISLATIVE PAPERS —For Statement of Objects and Reasons, *see* Calcutta Gazette, 1894, Pt IV, p 10, for Report of Select Committee *see ibid.*, 1895, Pt IV, p 36, and for Proceedings in Council *see ibid.* Supplement, 1894, pp. 241, 335, Supplement, 1895, pp 149, 328, 753, 1176, 1180, 1346 and 1446

LOCAL EXTENT —This Act extends to the whole of Bengal—*see* s 1 (2), but its application in the de regulated tracts is barred as follows, namely —

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s 3 (2), *ante*, p 257,  
in the Chittagong Hill tracts, by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s 4 (2), *ante*, p. 282, and  
in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s 3, *ante*, p 294.

REPRINT —This Act is reprinted in the Irrigation Manual, 1897, Vol. II, pp. 51 to 56

[2] Printed in Vol III of this Code.

[3] The meaning of this exception would appear to be that the Act is to some extent (*see* sections 6 and 25 *post*, pp. 381 and 387) applicable to municipalities.

[4] Printed, *ante*, p 104

*(Chapter II—Appointment of the Commissioners—Sec. 3)*

- (b) "estate" shall have the meaning attached to it in the Cess Act, 9 (B C) of 1880 [1]
- (c) "holder of an estate or tenure" shall have the meaning attached to it in the Cess Act, 9 (B C) of 1880 [1]
- (d) "local area" means the portion of a district or districts within which a rate is to be levied, in order to liquidate the cost of a scheme adopted by a District Board [2]
- (e) "tenure" shall have the meaning attached to it in the Cess Act, 9 (B C) of 1880 [1]
- (f) "the Collector" means, except as hereinafter [3] provided, the officer in charge of the revenue jurisdiction of the district within which the lands, which form the subject of a scheme under this Act, are situated
- (g) "the Commissioners" means the Drainage Commissioners under this Act
- (h) "the Engineer" means the District Engineer or any Engineer especially appointed by the Local Government to perform the functions of an Engineer under this Act
- (i) "tract" means the portion of a district or districts throughout which the Commissioners are authorised to exercise the functions conferred on them under this Act [4]

## CHAPTER II

## APPOINTMENT OF THE COMMISSIONERS.

Appointment  
of "the Com-  
missioners"

3. (1) Whenever an application is received from a District Board through the Collector and the Commissioner of the Division reporting that they believe that the sanitary condition of any tract within their jurisdiction has been deteriorated by the obstruction of drainage, whether from natural or artificial causes, the Local Government may—

- (a) issue, if it think fit, an order indicating approximately the area of the tract affected and prescribing the appointment of a number of persons, not less than nine, to be the Drainage Commissioners,

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[1] Printed *ante*, p. 104.

[2] See also s. 18, *post*, p. 384.

[3] See sections 6 (1), 31, 32 and 35 (g), *post*.

[4] For definition of "scheme", see s. 15 *post*, p. 384.



of 1895 ]

## SANITARY DRAINAGE ACT, 1895

*(Part I—Chapter II—Appointment of the Commissioners—Part II—  
Chapter I—Drainage Scheme—Secs 4-6 )*

(b) direct the District Board to elect not less than half of such number from among the members of the District or Local Board as the case may be,

(c) appoint the remainder of the Commissioners from among the holders of estates and tenures in the tract affected or from among the managers on behalf of such holders

(2) The Commissioners so created shall elect one of their number to act as Chairman

4. (1) When an affected tract referred to in the last preceding section includes lands subject to the jurisdiction of more than one local authority, the Local Government, by an order made on the application of any District Board concerned, may constitute a Joint Committee to be elected by all the local authorities concerned, the number to be elected by each being determined by the Local Government as far as possible in proportion to the interest of such local authority in the tract affected

Procedure  
when several  
local author-  
ities are  
interested

(2) The Local Government may further confer on any Committee so constituted, or on such of them as may be specified in the order, all the powers of a District Board under this Act, and such order may contain such provisions respecting the proceedings of any such Committee as may seem proper, and may provide for the payment by the local authorities represented thereby of the expenses incurred by any such Committee and for the audit of their accounts

5 The Local Government may from time to time accept the resignation of any of the Commissioners, or may add to their number, and in the event of any Commissioner dying, retiring, or ceasing to reside in the district, in which such tract is situated, the vacancy so caused shall thereupon be filled by appointment or by election, as the case may be, the conditions of the original appointment or election being in each case strictly observed

Resignation of  
"the Com-  
missioners"

Provided that not less than half the number of the Commissioners shall always be members of the District or Local Board, as the case may be

## PART II.

## CHAPTER I.

## DRAINAGE SCHEME.

6 (1) When the Commissioners have been appointed under section 3 or section 5, they shall, without delay, direct the Engineer to prepare a survey,

The Commis-  
sioners to  
direct survey

*(Part II.—Chapter I—Drainage Scheme—Sec 7)*

etc, and  
forward  
survey and  
preliminary  
scheme to the  
Collector

plans and estimates (hereinafter called “the survey”) for the restoration or improvement of the drainage of the tract found by him to be affected, and such survey shall be drawn up in accordance with rules to be framed under section 35 (1) (a)

On the completion of the survey the Commissioners shall, within a period to be fixed by the District Board which made the application (hereinafter called “the District Board”), forward the same to the Collector or the district within which the tract affected, or the principal part of it, is situated, together with a report (hereinafter called “the preliminary scheme”) containing—

- (a) a statement descriptive of the proposed undertaking, and showing how the drainage is obstructed, with a map of the tract affected,
- (b) an estimate of the total cost of the undertaking, including the cost of any land to be acquired under section 16,
- (c) an estimate of the annual cost of maintaining the works

Provided that, if the tract affected includes any municipal area, the estimate to be framed under clauses (b) and (c) of this section shall show separately the portion of the cost under each clause, which will be incurred in respect of such municipal area

Provided further that, if one or more municipalities fall within the tract, a separate estimate shall be framed of the cost of constructing and maintaining such portion of the works as lies within the area of any such municipality.

(2) The Collector shall thereupon cause to be prepared—

- (d) a statement showing the valuation for cess purposes of the lands included in the tract affected, and the total amount of cesses actually payable on the same,
- (e) an estimate showing the rate, bearing a definite proportion to the road cess [1] payable direct to Government, which would provide for the payment with interest in the course of thirty years of the amount under clause (b) and the capitalised value of the amount under clause (c) of this section, excluding the portion to be incurred in respect of the municipal area, if any

7 As soon as possible after the receipt of the survey and preliminary scheme, the Collector shall publish in every village in the tract affected a notification in the language of the district, calling for objections

Such notification shall be in the form in the Schedule hereto annexed and may be published by posting the same at each post office and police-

The Collector  
to publish  
notification.

[1] The road cess is imposed under the Cess Act, 1880 (Ben. Act 9 of 1880), printed *ante*, p 104

of 1895 ]

## SANITARY DRAINAGE ACT, 1895

*(Part II—Chapter I—Drainage Scheme—Secs 8-12)*

station within such tract and in some conspicuous part of each village and at the Court of the Munsif within whose jurisdiction such village, or any part thereof, is situated

8. As soon as practicable after the expiry of the period fixed by such notification, the Collector shall forward to the Commissioners the survey and preliminary scheme, together with the petitions of objection, if any, received by him, and shall call upon them to consider such survey and preliminary scheme together with such objections, and within a specified time to forward such survey and preliminary scheme to the Chairman of the District Board together with their report upon the objections, if any, as well as upon the state of public feeling in regard to such survey and preliminary scheme, and their advice as to their adoption or rejection.

The Commissioners to consider the survey, preliminary scheme and objections, and report thereon

9 On receipt of such survey and preliminary scheme, the District Board shall within one month's time proceed to take them into consideration at a meeting specially called for the purpose

District Board to consider the survey and preliminary scheme

10 If the District Board reject such survey and preliminary scheme, the cost of such survey and the salary, if any, of the Engineer directed to prepare the same shall be paid by the District Board

Procedure, if survey and preliminary scheme are rejected

11. If, at such meeting, a majority of the members present acting on the advice of the Commissioners, or, with the approval of a majority of not less than two-thirds of such members (such meeting to consist of not less than one half of the total number of the members of the Board), acting against the advice of the Commissioners, adopt the survey and preliminary scheme, they shall revise the preliminary scheme in the following manner —

Procedure if survey and preliminary scheme are adopted

- (i) they shall deduct from the aggregate amount estimated under clauses (b) and (c) of section 6 the sums, if any, which have been either anticipated or promised as private subscriptions or contributed by the District Board, or provisionally promised by the Local Government
- (ii) they shall thereupon submit the preliminary scheme so revised, together with the survey and the report prepared by the Commissioners under section 8, to the Collector.

12 The Collector shall thereupon:—

- (a) calculate the amount, which, if expressed as a rate bearing a definite

Procedure to be followed by the Collector.

*(Part II — Chapter I.—Drainage Scheme — Secs 13-15 )*

proportion to the road cess [1] leviable within the tract affected, would pay off the balance in equal annual instalments within thirty years (such instalments being fixed), so as to provide for the payment of interest on any sums borrowed from Government or the public,

- (c) forward such survey and preliminary scheme through the Commissioner of the Division to the Local Government for consideration

Provided that, if the instalments so fixed shall exceed the amount annually payable as road cess [1] within the tract affected, the Collector shall return such preliminary scheme to the District Board for further consideration

“ Scheme ”  
and “ local  
area ”

13 The “ survey and preliminary scheme ” thus adopted or modified shall be hereinafter called the “ scheme,” and the tract within which the new drainage rate is to be imposed shall be hereinafter called the “ local area ”

Powers of  
Local Gov  
ernment

14 The Local Government shall consider the scheme thus adopted or revised, together with the report of the Commissioners, and may approve, modify or reject the same, and if it approve or modify the scheme, it shall thereupon return it, so approved or modified, to the District Board through the Commissioner of the Division, with an intimation of the amount, which the Local Government will contribute towards the scheme

Provided that, if the modification adds materially to the cost of the operations, the scheme thus modified shall again be laid before the District Board for their consideration.

District Board  
may re con  
sider scheme,  
etc,  
adopted by  
them

15. (1) The District Board may, with the previous consent of the Local Government, at any time re-consider the scheme adopted by them, and add to, alter or modify the same, and if any addition, alteration or modification is thereupon made by them, they shall lay before the Local Government the scheme so added to, altered or modified, and the Local Government may sanction the same or any portion thereof, and thenceforth the provisions of this Act shall apply to the scheme as ultimately sanctioned by the Local Government

(2) Every material addition, alteration or modification made by the Local Government or by a District Board to, or in, any scheme after the adoption thereof, shall be published in the manner provided in section 7, and the provisions of sections 8 to 12 (both inclusive) shall apply

[1] The road cess is imposed under the Cess Act, 1880 ( Ben. Act 9 of 1880), printed *ante*, p. 104.

of 1895 ]

## SANITARY DRAINAGE ACT, 1895

(Part II—Chapter I—*Drainage Scheme*—Chapter II—*Expenditure and Apportionment*—Secs 16-19)

1 of 1894

16 Any land, likely to be needed in carrying out any scheme, sanctioned by the Local Government under this Act, may be acquired under the provisions of the Land Acquisition Act, 1894, [1] or any similar Act for the time being in force for the acquisition of land for public purposes

Land required for drainage works how to be acquired

Provided that no compensation shall be paid for land recorded as a water course in the last revenue survey map published under section 4 of Act 9 of 1847[2] or any similar enactment for the time being in force, unless it be proved that such land has been under cultivation for a period of not less than twelve years previous to the acquisition.

17 (1) All works under this Act shall be executed by the District Board, unless the Local Government order such works, or any portion of them, to be executed by more than one District Board or by an Engineer appointed in that behalf by itself.

Local Government may order execution of drainage works by an Engineer appointed by it

(2) Any person duly authorized to execute any works under this Act may himself, or by his agents and workmen, enter into or upon any lands forming part of the local area, and carry out such works thereupon as may be required

## CHAPTER II

## EXPENDITURE AND APPORTIONMENT

18. All amounts paid—

- (a) as compensation for any lands taken for the purposes of this Act ;
- (b) as salaries of the engineer, officers, servants or establishments specially employed by the Collector, the Commissioners or the District Board for the purposes of this Act ;
- (c) for any surveys, plans, estimates, valuations and incidental expenses connected therewith, whether antecedent or subsequent to the adoption of the scheme,

What amounts should be included in cost of construction

together with all amounts expended in carrying out the purposes of this Act, shall be included in, and be deemed to constitute, the cost of construction of works

19. (1) The Engineer shall, once in every three months, until the works shall be finally completed, submit to the District Board a detailed report showing the progress of the works and the amount expended thereon up to

Engineer to report progress and completion of works

[1] Printed in the General Acts, 1891-98, Ed. 1899, p. 100

[2] The Bengal Alluvial and Diluvial Act, 1847. It is printed *ante*, p. 59.

*(Part II — Chapter II — Expenditure and Apportionment — Secs 20-22)*

date from the commencement of the work or from the date of the last report, and when the works are completed and the accounts closed, he shall submit to the District Board a final report showing the total cost

(2) If the local area includes areas subject to the jurisdiction of more than one local authority, the proportion of such cost shall be defrayed by each local authority as far as possible in proportion to their interest in the work executed

(3) The District Board shall forward a copy of this report to the Local Government through the Commissioner of the Division, with such remarks as to them shall seem fit, and in the event of any local authority objecting to the proposed apportionment, the Local Government shall determine the proportion to be paid by them. The decision of the Local Government thereon shall be final

20. The total cost of construction mentioned in section 18 shall be ascertained by adding together—

(a) the actual amount expended,

(b) the interest payable on the loans under the Local Authorities Loan Act, 1879, [1] if any,

(c) the capitalized value of the estimated cost of maintenance

11 of 1879

From this sum shall be deducted the amounts subscribed or contributed as contemplated in sections 11 and 14

21. On receipt of the final report mentioned in section 19, the District Board shall require the Collector, within three months, to determine the amount of rate, which shall be collected with the road cess [2] annually payable direct to Government within the local area, and shall be sufficient to provide for the payment of the cost of construction as defined in section 20, in the course of not more than thirty years, excluding the portion to be incurred in respect of the municipal area, if any.

22 (1) The rate so determined shall be published as provided in section 40 of the Cess Act, 1880, [3] and shall be paid together with the road cess payable by those liable to pay such cess direct to Government within the local area, until such time as the period of not more than thirty years from the date of publication shall have expired, or the cost of construction of the works has been liquidated.

Ben Act 9  
1880

Amount to  
be appor-  
tioned how  
to be deter-  
mined

The Collector  
to determine  
rate

Rate to be  
published and  
to be paid  
with the  
road cess.

[1] Printed in the General Acts, 1877-81, Ed 1898 p 259

[2] The road cess is imposed under the Cess Act, 1880 (Ben Act 9 of 1880), printed *ante*, p. 104

[3] Printed *ante*, p. 104.

of 1895 ]

SANITARY DRAINAGE ACT, 1895

(Part II — Chapter II — Expenditure and Apportionment — Part III, — Chapter I — Miscellaneous — Secs. 23-26 )

(2) All arrearages of such rates shall be recoverable under the law [1] for the time being in force for the recovery of public demands

23 Any holder of an estate or tenure, who shall pay to the Collector any instalment of such rate payable under the last preceding section shall be entitled to recover half the amount of the instalment so paid from the holder of a tenure or cultivating raiyat holding lands within the local area under such holder of an estate or tenure in the same proportion and in the same manner as he is entitled to recover road cess or public works cess, payable under the provisions of the Cess Act, 1880 [2]

Share to be recovered by estate or tenure-holder

Ben Act 9 of 1880

24. Any holder of a tenure, who shall pay to the holder of an estate or tenure the sum due to such holder under the last preceding section, shall be entitled to recover half the sum so paid from the cultivating raiyats holding lands within the local area under such holder of a tenure, in the same proportion and in the same manner, as he is entitled to recover road cess or public works cess, payable under the provisions of the Cess Act, 1880 [2]

Amount to be recovered by tenure holder from raiyat

Ben Act 9 of 1880

25 (1) When the local area includes a municipal area, the amount payable under section 19 shall be defrayed by the municipality

Recovery of municipal portion of cost

(2) In order to provide for the payment with interest of such municipal share at the rate payable to Government by the District Board within a period of not less than thirty years, the amount required may be raised by an additional rate to be added to the tax upon persons or to the rate on the annual value of holdings as the case may be

## PART III

### CHAPTER I

#### MISCELLANEOUS.

26. All outlets and water-channels, natural or artificial, which shall be cleared, altered, enlarged, excavated or cut under the provisions of this Act, and the construction and maintenance of embankments and dams and works therein or connected therewith, shall be subject to the law [3] for the time being in force regulating the construction and maintenance of public embankments, rivers, channels and outlets

Drainage works subject to laws relating to public embankments.

[1] See the Public Demands Recovery Act, 1895 (Ben. Act 1 of 1895), printed in Vol IV of this Code

[2] Printed *ante*, p. 104.

[3] See the Acts printed under the heading "Embankments," *post*, p. 400.

Penalty for  
constructing  
weirs, etc.,  
obstructing  
public  
drainage

27. (1) Any person who, without lawful authority, erects or causes to be erected, any weir or other obstruction in any outlet or water-channel, or cultivates the bed of a water-channel, so as to obstruct natural drainage, shall, upon conviction before a Magistrate, be liable to a penalty not exceeding two hundred rupees for every such offence

(2) It shall be in the discretion of such Magistrate to direct any such offender to remove and pay for the entire cost of the removal of any such obstruction

Lands taken  
and works  
constructed  
under Act to  
be under Dis-  
trict Board

28. All lands which are taken under the provisions of this Act for the purpose of the construction of works therein or thereon, and all works constructed under the provisions of this Act, as well as all outlets, water-channels, embankments and dams so constructed, cleared, altered, enlarged, excavated or cut, shall be under the control and administration of the District Board

Powers of  
the Commis-  
sioners, etc.,  
in taking  
evidence

29. The Commissioners, the Collector, and the Commissioner of the Division shall have all such powers as are conferred on Civil Courts by the Code of Civil Procedure [1] for the purpose of compelling the attendance of witnesses and the production of evidence, and for the purpose of examining witnesses in any inquiry or appeal, which they may be empowered to make or entertain under the provisions of this Act

14 of 1882

Proceedings  
not to be  
invalidated by  
irregularities

30. No proceeding under this Act shall be defeated or invalidated by reason of any defect or omission in the publication or service of any notification, notice or order, unless material injury is done to any person by such defect or omission

Local Govern-  
ment may  
empower any  
person to  
act for the  
Collector

31. The Local Government may specially empower any person to do all such acts, to discharge all such functions, and to exercise all such powers as may be done, discharged or exercised by a Collector under this Act, and on any person being so specially empowered, such person may do all such acts, discharge all such functions, and exercise all such powers, and such person shall be deemed to be the Collector for the purposes of the scheme, in respect of which he is so specially empowered

The Collector  
may delegate  
his authority  
to another

32. (1) The Collector may, with the sanction of the Commissioner of the Division, delegate to any Deputy or Assistant Collector, the performance of any acts or the discharge of any functions which the said Collector may perform or discharge under this Act

(2) Upon such delegation, such Deputy Collector or other officer may do



of 1895.]

SANITARY DRAINAGE ACT, 1895

(Part III—Chapter I—Miscellaneous—Chapter II—Rules—Secs 33 35)

such acts, discharge such functions, and exercise such powers for the performance of the same, as the Collector may exercise under this Act

Provided that all acts done, functions discharged, and powers exercised by such officer, shall be done, discharged, or exercised subject to the control and supervision of the Collector

33 Notwithstanding anything hereinbefore contained, all the proceedings of the Commissioners and of the Collector under this Act shall be subject to the general control and supervision of the Commissioner of the Division, or, when the tract or local area affected comprises land situated in more than one Division, of such Commissioner as the Local Government may direct

34. If at any time the Local Government is satisfied that the cost of any scheme of works, including the cost of maintenance, has been erroneously estimated, it may direct that the scheme be no further proceeded with, until the same has been revised.

Proceedings of the Commissioners and the Collector subject to control of Commissioner of Division

Local Government may direct cessation of work and revision of the scheme

## CHAPTER II

### RULES

35 (1) It shall be lawful for the Local Government, from time to time, to make, and, when made, to alter or repeal, rules not inconsistent with this Act, for the purpose of—

Power of Local Government to make rules and to cancel them.

- (a) prescribing the forms of accounts, surveys, plans, estimates, periodical statements and reports,
- (b) regulating the conduct of business at the meetings of the Commissioners,
- (c) regulating the instalments by which and the mode in which sums payable under this Act shall be paid;
- (d) regulating the carrying out and maintenance of works, when one or more local authorities are concerned,
- (e) ascertaining the capitalized value of the estimated cost of maintenance of drainage works;
- (f) providing for professional supervision over the preparation of surveys, plans and estimates, and the execution and maintenance of drainage works;
- (g) allotting the duties of the Collector under this Act among Collectors of different districts as may be convenient; and
- (h) generally carrying out the purposes of this Act

## THE BENGAL SANITARY DRAINAGE ACT, 1895 [Ben Act 8 of 1895.]

*(The Schedule)*

(2) The Local Government shall, before making, altering or repealing rules under this section, publish a draft of the proposed rules and alterations and a notification of the proposed repeals in three consecutive numbers of the Calcutta Gazette, and shall specify a date not less than one month from the date of publication, at or after which such draft and notification will be taken into consideration

(3) The Local Government shall receive and consider any objection or suggestion which may be made by any person with respect to such draft and notification before the date so specified

(4) Every rule so made or altered, and every repeal of any such rule under this section shall be thereafter published in the Calcutta Gazette

## SCHEDULE

*(See section 7)*

## BENGAL SANITARY DRAINAGE ACT, 1895

*To all whom it may concern.*

TAKE notice, that with the object of improving the sanitary condition of the country, it is proposed to restore or improve the drainage in the thanas of district

Copies of the plans and estimates of the work proposed, which will affect (so many) villages, are now in the office of . . . , and may be inspected by any persons interested at any time between 11 A.M. and 5 P.M., Sundays and holidays excepted, up to and including the . . . day of . . .

It is estimated that, if the said drainage scheme is carried out, a rate will be payable by the residents of the villages affected which will be equivalent to . . . on every rupee now paid as Road Cess for a period of thirty years from the date of the completion of the works, unless the District Board shall decide to collect the amount within a shorter period

Any person objecting to the execution of the said works shall submit a petition in writing, duly signed, to the Collector of . . . . . on or before the . . . . . day of . . . . .

Any person who does not object in the manner and within the time mentioned, shall be held to have assented to the execution of the works.

*Collector.*

[Ben Act 2 of 1902.] THE BENGAL DRAINAGE (AMENDMENT) ACT, 1902

## THE BENGAL DRAINAGE (AMENDMENT) ACT, 1902

(BENGAL ACT 2 OF 1902)

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## THE BENGAL DRAINAGE (AMENDMENT) ACT, 1902

(BENGAL ACT 2 OF 1902) [1]

[1st October, 1902]

## An Act to amend the Bengal Drainage Act, 1880

WHEREAS it is expedient to amend the Bengal Drainage Act, 1880, in the manner hereinafter appearing, Ben Act 6 of 1880

It is hereby enacted as follows —

Short title.

1 This Act may be called the Bengal Drainage (Amendment) Act, 1902

[1] LEGISLATIVE PAPERS — For Statement of Objects and Reasons, *see* Calcutta Gazette, 1902, Pt IV A, p. 7, for Report of Select Committee, *see ibid*, Pt IV, p. 9, and for Proceedings in Council, *see ibid*, Pt IV A pp 13, 49, 86 and 90

LOCAL EXTENT — Since this Act has no "local extent" clause it must be taken to extend, like the Act which it amends, to the whole of Bengal, but its application in the de-regulationised tracts is barred as follows, namely:—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s 3 (2), *ante*, p. 257, in the Chittagong Hill tracts, by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), *ante*, p. 282, and

in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3, *ante*, p. 294.

of 1902 ]

(AMENDMENT) ACT, 1902

(Part I — Amendment of the Bengal Drainage Act, 1880 —  
Secs 2-7 )

## PART I

*Amendment of the Bengal Drainage Act, 1880*

2 In section 3 of the Bengal Drainage Act, 1880, after the definition of "Collector" the following shall be inserted, namely —

[ Printed *ante*, p 349 ]

3 For section 26 of the said Bengal Drainage Act, 1880, the following shall be substituted, namely —

26, 26A [ Printed *ante*, p 358 ]

4 In section 28, sub-section (2), of the said Act, for the words and figures "the interest mentioned in section 26" the word "interest" shall be substituted

5 The following portions of the said Act are hereby repealed, namely —  
section 29,

in section 30, the figures and word "26 or,"

in section 31, the words "upon such sums at five *per centum per annum*," and the words and figures "and any interest payable under section 29, and any interest payable under clause (1) of section 26, but not paid or recovered before the apportionment under section 28,"

in section 38, the words "thereupon at five *per centum per annum*,"

in clause (b) of section 42, and in clause (b) of section 43, the words "at the rate of five *per centum per annum*," and

in sub-section (3) of section 44, the words "at five *per centum per annum*"

6. After section 36 of the said Act the following shall be inserted, namely —

36A. [ Printed *ante*, p 362.]

7. (1) In section 37 of the said Act,—

for the words "its service" the words "the service thereof" shall be substituted, and

for the words "at the rate of five *per centum per annum*" the words "up to the day of payment" shall be substituted.

(2) The words "at the said rate," in the said section 37, are hereby repealed.

Amendment of section 3, Bengal Act 6 of 1880

Amendment of section 26 and insertion of new section, 26A

Amendment of section 28

Repeal of section 29 and portions of sections 30, 31, 38 and 42 to 44

Insertion of new section, 36A

Amendment of section 37.

## THE BENGAL DRAINAGE

[Ben Act 2

(Part I—Amendment of the Bengal Drainage Act, 1880—Part II—Past claims and charges in respect of the drainage schemes of Howrah and Rajapur—Secs 8-14)

Insertion of  
new Part  
IVA

8 After section 41 of the said Act the following shall be inserted, namely —

PART IVA [Printed *ante*, p 364]

Insertion of  
new sections,  
44A and 44B

9 After section 44 of the said Bengal Drainage Act, 1880, the following shall be inserted, namely — Ben Act 6 of 1880

44A, 44B [Printed *ante*, p 367]

Amendment  
of section 45

10 In section 45 of the said Act, after the figures “43” the words and figures “or under section 44A” shall be inserted.

Amendment  
of section 48

11. (1) At the end of sub-section (1) of section 48 of the said Act the following shall be added, namely —

[Printed *ante*, p 369]

(2) In sub-section (3) of section 48 of the said Act, for the word “five” the word “four” shall be substituted

Insertion of  
new sections,  
51A to 51J

12 After section 51 of the said Act the following shall be inserted, namely —

51A to 51J [Printed *ante*, pp. 370 to 373]

Amendment  
of Schedule B

13. (1) In Schedule B to the said Bengal Drainage Act, 1880, for the word “five” the word “four” shall be substituted Ben Act 6 of 1880

(2) To the said Schedule the following shall be added, namely —

[Printed *ante*, p. 377.]

## PART II

*Past claims and charges in respect of the drainage schemes of Howrah and Rajapur*

Recovery,  
under the  
certificate  
procedure, of  
certain  
subsisting  
claims in  
respect of the  
Howrah and  
Rajapur  
drainage  
schemes.

14 The provisions of sections 41A, 44A, 51A, 51B [except clauses (a) and (c)] and 51C of the Bengal Drainage Act, 1880,[1] as amended by this Act, as to the recovery of moneys upon application to the Collector, shall apply also to all claims which have already accrued in respect of the drainage schemes of Howrah and Rajapur and which, at the commencement of this Act, are unsatisfied and have not been barred by limitation Ben Act 6 of 1880

Provided that every application under any of the said sections in respect of any such claim be made within three months from the commencement of this Act.

[1] Printed *ante*, p 348

of 1902.]

(AMENDMENT) ACT, 1902

(Part II—*Past claims and charges in respect of the drainage schemes of Howrah and Rajapur.*—Secs 15, 16 )

Ben Act 6 of  
1880.

15 (1) The Collector shall, as soon as conveniently may be, revise all orders heretofore passed under section 36 of the said Bengal Drainage Act, 1880,[1] which declared the sums payable in respect of lands benefited by the drainage schemes of Howrah and Rajapur, so as—

Reduction of  
past charges  
in respect of  
the Howrah  
and Rajapur  
drainage  
schemes

(a) to reduce all charges for interest to the sums which would have been chargeable if the amendments made by this Act had been in force when such orders were passed, and

(b) to make such reductions (if any) in other charges as may be directed by the Local Government

(2) When the reductions directed by or under sub-section (1) have been made in respect of any scheme, the Collector shall make an order stating—

(i) that all holders of land benefited by the scheme, and all tenants of such land, are entitled to proportionate relief,

(ii) how such relief is to be apportioned in respect of each class of such land,

(iii) such particulars as to the determination of the persons who are entitled to such relief, and as to the determination of the sums to which such persons are respectively entitled, as may be prescribed by rules made under section 19, and

(iv) any other particulars prescribed by such rules.

(3) Every order made under sub-section (2) shall be subject to the approval of the Commissioner

(4) When any such order has been so approved, it shall be published in such manner as to the Collector may seem fit, and shall, after such publication, be conclusive evidence in any Civil Court, and in any proceedings under this Act, of the matters stated therein.

16. (1) If, prior to the publication of any order made under section 15 in respect of any scheme, the whole sum payable by any landholder in respect of such scheme has been duly paid, then such landholder shall upon such publication, be entitled to a refund of the sum to which he is entitled under such order

Refunding or  
crediting of  
reduction to  
landholder

(2) If, when any order made under section 15 in respect of any scheme has been duly published, any sum payable by any landholder in respect of such scheme still remains to be paid, then the sum to which such landholder is entitled under such order shall be credited to him.

THE BENGAL DRAINAGE (AMENDMENT) ACT, 1902 [Ben Act 2 of 1902]  
*(Part II—Past claims and charges in respect of the drainage schemes of  
 Howrah and Rajapur—Secs 17-19.)*

Proportionate  
 reduction in  
 amounts  
 recoverable by  
 landholder  
 from tenants

17. (1) When any sum has been refunded or credited to a landholder under section 16 of this Act, the amounts which were recoverable by him under section 42, clause (b), section 44, section 44A or section 51A of the said Bengal Drainage Act, 1880,[1] from persons who have held or are now holding land immediately from him, shall be proportionately reduced

Ben Act 6 of  
 1880

(2) Any such persons who have paid such amounts shall have a right, at their option,—

(a) to a refund of the sums to which they are entitled under sub-section (1), or

(b) to take credit for such sums in any adjustment of accounts between themselves and the landholder

Proportionate  
 reduction in  
 amounts  
 recoverable  
 by superior  
 tenants from  
 under  
 tenants

18. (1) When any sum recoverable from a superior tenant is liable to reduction under section 17 of this Act, the amounts which were recoverable by him under section 43, clause (b), section 44, section 44A or section 51A of the said Bengal Drainage Act, 1880,[1] from persons who have held or are now holding land directly from him, shall be proportionately reduced.

Ben Act 6 of  
 1880

(2) Any such persons who have paid such amounts shall have a right, at their option,—

(a) to a refund of the sums to which they are entitled under sub-section (1), or

(b) to take credit for such sums in any adjustment of accounts between themselves and the superior tenant

Power to  
 make rules  
 as to reduc-  
 tions

19. (1) The Local Government may, after previous publication, make rules for carrying out and giving effect to the provisions of sections 15 to 18

(2) In particular, and without prejudice to the generality of sub-section (1), the Local Government may—

(a) prescribe the particulars to be stated in orders made under section 15, and

(b) declare the conditions under which refunds and credits shall be made under sections 16, 17 and 18

(3) All rules made under this section shall be published in the Calcutta Gazette and in such other manner (if any) as the Local Government may direct.



# EASTERN FRONTIER

## BENGAL EASTERN FRONTIER REGULATION, 1873 [1]

(REGULATION 5 OF 1873)

[27th August, 1873]

### A Regulation for the peace and government of certain Districts on the Eastern Frontier of Bengal

WHEREAS the Secretary of State for India in Council has by Resolution in Preamble Council declared the provisions of Act 33 Vict., cap. 3, [2] section 1, to be applicable to the districts of Kamrup, Darrang, Nowgong, Sibságu, Lakhimpur, *Garo Hills*, [3] Khasi and Jaintia Hills, Nagá Hills, Cachar \* \* [4],

And whereas the Lieutenant-Governor of Bengal has proposed to the Governor General in Council a draft of the following Regulation, together with the reasons for proposing the same, for the peace and government of the said districts,

And whereas the Governor General in Council has taken such draft and reasons into consideration, and has approved of such draft, and the same has received the Governor General's assent,

The following Regulation is now published in the Gazette of India, and will be published in the Calcutta Gazette, and will thereupon have the force of law, under the 33rd of Victoria, chapter 3 [2].—

1. This Regulation shall extend to the districts named in the preamble, Local extent and shall come into force on the 1st of November, 1873.

2. It shall be lawful for the Local Government of Bengal, with the previous sanction of the Governor General in Council, to prescribe, and from Power to prescribe and alter inner line time to time to alter by notification in the Calcutta Gazette, a line to be called "The Inner Line" in each or any of the above-named districts.

[1] SHORT TITLE.—This short title was given by Notification No 13, dated 11th October, 1875, published in Gazette of India, 1875, Pt. I, p. 529.

LOCAL EXTENT.—The only parts of Bengal in which this Regulation is in force are the districts of Jalpaiguri and Darjeeling, to which it was extended by Notification No 605 P, dated the 25th February, 1904—see Vol. V, Part V B (a).

REPRINT.—A revised edition of this Regulation, as modified up to the 1st July, 1903, has been published by the Legislative Department of the Government of India.

[2] The Government of India Act, 1870. It is printed in the Collection of Statutes relating to India, Vol. I, Ed. 1899, p. 451.

[3] Reg 5 of 1873, so far as it applies to the Garo Hills District, was repealed by the Repealing Act, 1897 (5 of 1897).

[4] The words "and Chittagong Hills," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

(Secs 3-6)

The Local Government may, by notification in the Calcutta Gazette, prohibit all British subjects, or any class of British subjects, or any persons residing in or passing through such districts from going beyond such line without a pass under the hand and seal of the chief executive officer of such district, or of such other officer as he may authorize to grant such pass, and the Local Government may from time to time cancel or vary such prohibition

Penalty for  
crossing line  
without pass

3 Any British subject or other person so prohibited, who, after "The Inner Line" has been prescribed and notified in accordance with section 2 of this Regulation, goes beyond such line without a pass, shall be liable, on conviction before a Magistrate, to a fine not exceeding rupees 100 for the first offence, and to a fine not exceeding rupees 500, or to simple or rigorous imprisonment for a term not exceeding three months, or to both, for each subsequent offence

Power to  
prescribe form  
of pass

4. The Local Government may from time to time prescribe by notification in the Calcutta Gazette a form of pass for each district, and may in such form fix such restrictions or conditions as the Local Government may deem fit, and may require the payment of such dues and fees for such passes as to the Local Government may seem proper.

Any holder of such a pass shall, on breach of any such restriction or condition, be liable on conviction to a fine not exceeding rupees 100 for a first offence, and to a fine not exceeding rupees 500, or to simple or rigorous imprisonment, which may extend to three months, or to both, for each subsequent offence

Confiscation  
of jungle  
product  
found with  
offender

5. Any rubber, wax, ivory or other jungle-product found in the possession of any person convicted of an offence under this Regulation may be confiscated to Government by an order to be passed at the time of conviction by the Magistrate

Power to  
authorize  
arrest

6. The chief executive officer of any district comprised in any notification as aforesaid may, subject to the approval of the Local Government, authorize, by a written instrument under his hand, any public servant to arrest and bring before him with the least practicable delay—

*firstly*, any person prohibited from crossing "The Inner Line" prescribed for such district, if such person shall be found beyond the line and when asked to produce his pass shall refuse or be unable so to do :

of 1873 ]

## REGULATION, 1873

(Secs 7 11)

*secondly*, any person to whom a pass may have been granted, and who has committed any infraction of its conditions

7 It shall not be lawful for any British subject or other person, not being a Native of the districts comprised in the preamble of this Regulation, to acquire any interest in land or the product of land beyond the said "Inner Line" without the sanction of the Local Government or such officer as the Local Government shall appoint in this behalf

Acquisition of interest in land by other than Natives of districts comprised in preamble

Any interest so acquired may be dealt with as the Local Government or its said officer shall direct

The Local Government may also, by notification in the Calcutta Gazette, extend the prohibition contained in this section to any class of persons, Natives of the said districts, and may from time to time in like manner cancel or vary such extension

8. to 10. [*Killing or capturing elephants*] *Rep. by Reg 1 of 1880*

11. Offences against this Regulation may be tried by Magistrates of the first or second class, and shall be bailable

Jurisdiction as to offences

# EMBANKMENTS

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Ben Act 6 of 1873.	the Bengal Embankment Act, 1873	„ 418.
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## THE BENGAL EMBANKMENT ACT, 1855

(ACT 32 OF 1855)

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[1] This Table has been newly added

[Act 32 of 1855.] THE BENGAL EMBANKMENT ACT, 1855

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THE BENGAL EMBANKMENT ACT, 1855<sup>[2]</sup>

(ACT 32 OF 1855)

[30th November, 185

## An Act relating to Embankments

Preamble

WHEREAS the Regulations now in force for the maintenance of embankments in the territories under the Government of the Lieutenant-Governor of Bengal have been found ineffectual for the intended purposes thereof, and whereas it is desirable that provision should be made for the better supervision and protection of the same, It is enacted as follows —

1. [Repeal of Bengal Regulations 6 of 1806 and 11 of 1829] Rep by the Repealing Act, 1870 (14 of 1870)

“Embankment” defined

2 The word “embankment” in this Act means an embankment for the purpose of excluding or retaining water, and every embankment which is now kept up, or may hereafter be kept up, by the officers of Government, at the expense either of Government or of any private person, is a public embankment within the meaning hereof

Superintendent of Embankments

3. The superintendence of the public embankments shall be entrusted, subject to the general orders of Government, to an officer who shall be called the Superintendent of Embankments

[1] RULES AND ORDERS —For notifications, letters and other documents relating to embankments in Orissa and the Sundarbans, see the Irrigation Manual, 1897, Vol I, pp 1 to 59

For notes, tables, rules, correspondence and notifications as to Orissa embankments, see the Orissa Canals Manual, 1896, pp 144, *et seq*

For notifications, letters and other documents relating to embankments in Bengal other than those in Orissa and the Sundarbans see the Irrigation Manual, 1897, Vol I, pp 61 to 108

For lists of rules and orders issued under the several Acts relating to embankments, see the Bengal Local Statutory Rules and Orders, 1903, Vol I pp 98, 99 and 110 to 112, and for some of those rules and orders *in extenso* see *ibid*, Vol II, pp 112 to 119

[2] SHORT TITLE —This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), *ante*, p 18.

LOCAL EXTENT —This Act was declared by the Laws Local Extent Act, 1874 (15 of 1874), section 6 (printed, General Acts, 1868 76, Ed 1898, p 435), to be in force throughout Bengal, except as regards the Scheduled Districts

It had, however, previously been repealed everywhere, except in Orissa and the Sundarbans, by the Bengal Embankment Act, 1873 (Ben Act 6 of 1873), parts of which are printed *post*, p. 418

The application of the Act is barred in the de-regulationised tracts in Bengal as follows, namely —

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s 3 (2), *ante* p. 257,

in the Chittagong Hill tracts, by the Chittagong Hill tracts Regulation, 1900 (1 of 1900), s 4 (2), *ante*, p 282, and

in the Southal Parganas, by the Southal Parganas Settlement Regulation (3 of 1872), s 3 (2), as amended by the Southal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3, *ante*, p. 294.

SUPPLEMENTAL PROVISIONS FOR ORISSA —See the Bengal Embankment Act, 1832 (Ben. Act 2 of 1832), ss. 92 and 93, *post*, p. 433

REPRINTS. —Act 32 of 1855 is reprinted in the Irrigation Manual, 1897, Vol. II, p. 1, and in the Orissa Canals Manual, 1896, p. 133.

of 1855 ]

THE BENGAL EMBANKMENT ACT, 1855

(Secs 4, 5)

4 *Clause 1*—The Superintendent of Embankments may cause any embankment which connects public embankments, or forms by junction with them part of a line of embankment, or is necessary for the protection of the neighbouring country, to be taken charge of and kept up by the officers of Government

Charge of embankment connecting public embankments, etc

*Clause 2*—He may also cause any private embankment, which endangers the stability of a public embankment, or obstructs the beneficial drainage of the country, to be removed

Removing private embankment endangering public

*Clause 3*—He may also, when necessary, change the line of any public embankment, or make a new embankment

one Changing line of embankment or making new one

*Clause 4*—He may also enlarge any public embankment, and do all acts necessary and proper for the maintenance thereof

Enlarging embankment, etc

5. *Clause 1*—Before the Superintendent shall cause any of the works mentioned in the first three clauses of the next preceding section to be executed, he shall give notice in writing to the Collector of the district of his intention so to do.

Notice to Collector before taking charge, etc.

Upon the receipt of such notice the Collector shall cause a proclamation to be issued, incorporating the substance of the notice, and calling upon all persons interested, who may be desirous of showing cause against the execution of such works, to appear before him on a certain day to be named therein.

Issue of proclamation

*Clause 2*—The proclamation shall be published by affixing the same in the cutcherry of the Collector, the mál cutcherry (if any) of the estate on which the works are intended to be executed, and on some conspicuous spot in the neighbourhood thereof

Publication of proclamation

The proclamation shall be published not less than fifteen days before the day appointed for hearing the parties interested

*Clause 3*.—The Collector shall hear the objections of any parties who may appeal, and, after recording any evidence which they may adduce, shall communicate the objections that may be made, together with his opinion thereon, to the Superintendent of Embankments.

Procedure on appearance of parties.

If the Superintendent agree in opinion with the Collector, he shall pass an order accordingly.

If he differ from the Collector, the case shall be referred to the Commissioner of Revenue, who shall pass such orders thereon as he may deem fit.

*Clause 4*—Every such order passed by the Superintendent shall be appealable to the Commissioner of Revenue, and every order of the

Appeal from orders of Superintendent

and Commis-  
sioner

Commissioner shall be appealable to the Board of Revenue, but no appeal shall lie against any order passed under this section, unless the same be presented within one month from the date of the order

Orders not  
open to revi-  
sion by Civil  
Court

*Clause 5*—Subject to the right of appeal above-mentioned and to the orders and control of Government, every order passed under this section shall be final and shall not be open to revision by any Civil Court, and shall be conclusive as to the necessity of any works ordered to be executed

Charging cost  
of maintain-  
ing private  
embankments  
in charge of  
Government  
officers.  
Proviso.

6 Whenever the Superintendent of Embankments shall hereafter cause an embankment which any person is bound to keep up to be taken charge of by the officers of Government, the expense of keeping up such embankment shall be charged to such person

Provided that the amount so charged shall not exceed the reasonable expense of keeping up an embankment of the size and description which such person was bound to keep up, notwithstanding the embankment shall have been enlarged or improved by the officers of Government

Compensation  
for damages

7 *Clause 1.*—When the Superintendent of Embankments shall enlarge or change the line of any embankment, or make a new embankment, or cause an embankment to be removed, any person sustaining damages thereby, who, but for the passing of this Act, would be entitled to compensation, may prefer his claim for such compensation to the Collector of the district, at any time within twelve months after the execution of the work by which he is endamaged, and the Collector thereupon shall report the case for the orders of the superior revenue-authorities.

If the claim be rejected, the claimant shall not be deprived, by reason of this Act, of any right which he might otherwise have had to recover such compensation by a civil action, but such action shall not lie unless the claimant shall have first preferred his claim to the Collector within the period above-mentioned, nor unless the suit be brought within a period of one year after notice to the claimant of its rejection.

If the claim for compensation be admitted by the revenue-authorities, and the amount of compensation cannot be agreed upon, the same shall be settled by arbitration, in the manner hereinafter provided, and in no other manner, unless by the consent of the claimant and of the superior revenue-authorities [1]

Appointment  
of arbitrators

*Clause 2.*—Unless the Collector and the claimant concur in the appointment of a single arbitrator, the Collector on the part of Government, and the claimant, shall each appoint an arbitrator.

[1] For a restriction upon the payment of compensation, see the Bengal Embankment Act, 1866 (Ben. Act 7 of 1866), s. 1, *post*, p. 414.



of 1855.]

THE BENGAL EMBANKMENT ACT, 1855

(Sec 7)

The appointment shall be in writing, and neither of the said parties shall have power to revoke the same without the consent of the other

*Clause 3* —If there be several claimants for compensation in respect to the same injury, and they cannot agree in the appointment of an arbitrator on their behalf, in that case each of them may nominate one person, and the Collector shall choose by lot out of the persons so nominated by the parties or any of them a person to act as arbitrator on behalf of the claimants

Arbitrator how chosen when there are several claimants for compensation

If only one person shall be so nominated, he shall be the arbitrator on behalf of the claimants

*Clause 4* —When more than a single arbitrator shall be appointed, the arbitrators shall, before they enter upon the matters referred to them, nominate and appoint by writing a third person to act with them as arbitrator, and, in case the arbitrators shall neglect to appoint such third arbitrator for a period of seven days after having been required so to do, the Collector may appoint such third arbitrator

Appointment of third arbitrator

If the arbitrators differ in opinion, or if one of them, having received due notice of a meeting of arbitrators, neglect to attend, any two arbitrators may make an award

*Clause 5* —If any person on being appointed an arbitrator shall refuse to act, or after accepting the appointment shall die or become incapable of acting another person shall be appointed in his stead, in the same manner in which the first person was appointed.

Appointment in place of arbitrator not acting

*Clause 6* —After the arbitrators have accepted the appointment, the Collector shall be competent to exercise towards them such powers and authority, for securing their attendance and the due completion of their award, as the said Collector may legally exercise towards witnesses summoned before him when acting judicially for the purposes of compelling them to attend and give evidence

Collector empowered to enforce attendance of arbitrators

*Clause 7*.—If no award be made within a period to be fixed for that purpose by the Collector, he may order that the matter shall be referred to another arbitrator or other arbitrators, to be chosen in the same manner and subject to the same rules as the first.

In default of award within specified period, fresh arbitrators may be chosen

*Clause 8*.—The Collector shall furnish to the arbitrators, or, so far as may be in his power, procure for them, any information which his records or those of any public department may afford connected with the subject of inquiry.

Collector to furnish information to arbitrators, and to enforce attendance

He shall, on the application of the arbitrators, summon any witnesses whom the arbitrators may call for, and whom the parties may not be able to

(Sec 7)

and examination of witnesses, etc

produce before them without such process, and require the persons so summoned to bring and produce before them all such books, papers, deeds, writings, maps and plans as they shall require

He shall also cause the proper affirmation to be made and signed by any witness whom the arbitrators may desire to examine upon affirmation, or he may empower the arbitrators to cause such affirmation to be made and signed before them

Penalty on witness not appearing

Any witness who shall refuse or omit to appear when duly summoned by the Collector, or who shall appear but shall refuse to make such affirmation, or who shall refuse to give evidence, shall be liable to the same punishment which would be incurred under the law by a witness refusing to appear or give evidence before the Collector when acting judicially.

Penalty for false deposition

Any person giving intentionally and deliberately a false deposition under an affirmation, in any case referred to arbitration as above, shall be held to be guilty of perjury, and shall be liable to the penalties prescribed for that offence by law

Award of arbitrators

*Clause 9*—On the close of the inquiry the arbitrators shall deliver a full and complete award, which shall specify the amount of compensation and the party or parties entitled thereto

The proceedings of the arbitration shall be deposited in the Collector's office, and every party interested therein shall be entitled to a copy of the award on plain paper under the seal and signature of the Collector, which copy shall be *prima facie* evidence thereof.

When payment of compensation may be deferred

*Clause 10*—If the right to the compensation awarded shall in any case be doubtful, or if there exist any ground which, in the judgment of the arbitrators or of the Collector, render it improper to make immediate payment thereof to any of the claimants, the amount shall be invested in Government securities, and held in deposit until one of the claimants shall obtain an order of Court for the payment thereof.

Reversal or alteration of award

*Clause 11*—No award passed under this section shall be liable to be reversed or altered, except by the decision of a Civil Court on the ground of corruption or misconduct of the arbitrators, and no suit to set aside such an award shall be entertained, unless it be instituted within three months from the date of the award.

In case the award shall be so reversed, the matter shall be referred to another arbitrator or other arbitrators, to be appointed in the same manner as the first.

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THE BENGAL EMBANKMENT ACT, 1855

(Sec 8)

*Clause 12*—All suits and proceedings instituted against Government in any case in which compensation has been awarded, except suits instituted for the reversal of awards as aforesaid, shall be dismissed with costs

Dismissal of suits against Government

But nothing herein contained shall affect the right of any party to recover the amount awarded from any person who may have received the same without any just title thereto

Proviso

*Clause 13*—In fixing the amount of compensation to which any person may be entitled by reason of any of the acts mentioned in *Clause 1* of this section, the Court or arbitrators, as the case may be, shall take into consideration whether any party to the suit or arbitration has derived or will derive benefit from the act in respect of which the compensation is claimed, and shall set off the estimated value of such benefit, if any, against the compensation which would otherwise be decreed or awarded to that party

Estimated value of benefit to be set off against compensation awarded

*Clause 14*—The provisions of this section shall not be held applicable to cases in which the compensation to be made has reference only to huts, trees or crops which it may be necessary to remove or destroy in enlarging or changing the line of a public embankment.

Exception of cases of compensation in respect to huts, trees or crops

In all such cases the officer in charge of the public embankments of the district shall report to the Collector, and the Collector shall thereupon proceed to value and make compensation for such huts, trees and crops, in the manner prescribed in section 12 of this Act.

8. *Clause 1*—If any landholder, farmer or cultivator be desirous of having a sluice made in any public embankment for the purpose of drainage or irrigation, he shall make an application in writing to the Collector of the district in which such embankment is situate [1]

Application by landholder to have sluice made in public embankment

The application shall contain such particulars of the land to be drained or irrigated as may enable the officers of Government to judge of the advantage which may be derived from the work, and shall declare, as regards an embankment maintained at the expense of the State, whether the applicant is willing to bear such part, not exceeding half of the cost thereof, as may be determined by Government, and, as regards any other public embankment whether the applicant is willing to defray the whole or such part of the cost incident to, and attendant on, the proposed work, as may be determined as aforesaid.

*Clause 2*—The Collector shall transmit such application to the officer in

Officer in immediate

[1] As to apportionment of cost of sluice where lands of several owners are benefited, see the Bengal Embankment Act, 1866 (Ben Act 7 of 1866), s 6, *post*, p 416

charge to  
report on pro  
posed work

charge of the embankments of the district, who shall report his opinion thereon to the Superintendent of Embankments, and, if he be of opinion that compliance with the application is unobjectionable, shall annex to his report plan of the proposed work and an estimate of the expense of its construction

The Superintendent of Embankments shall pass such order thereon as he shall think fit, which order shall be final.

Upon appli-  
cant engaging  
to defray cost,  
Collector  
may issue  
certificate

*Clause 3* —If the construction of the proposed sluice receive the approval of the Superintendent of Embankments, the Collector shall require the applicant to enter into a written agreement to defray the whole or half of the expense or such portion thereof as may be determined under the provisions of *Clause 1* of this section, as the case may be, and, upon such agreement being executed, shall issue a certificate to the officer in charge of the public embankments of the district to construct the sluice

Opening of  
sluices

9. Sluices constructed in any public embankment shall be opened only by, or with the permission of, the officer in the immediate charge of the embankment, under such orders, either general or special, as he may receive from the officer in charge of the public embankments of the district or from the Superintendent of Embankments

Officer in  
immediate  
charge may  
authorize  
temporary  
watercourse,  
etc., to be  
made

10 Whenever any person is desirous that a temporary watercourse should be made through, or that a temporary roadway should be made over, any public embankment, or that a temporary dam should be constructed in any embanked river, he shall apply to the nearest officer of the Embankment Department, who shall communicate the application to the officer in charge of the public embankments of the district, and that officer shall pass such orders thereon as he shall think fit, subject to the control of the Superintendent of Embankments

If the proposed work is to be executed by an officer of Government, the applicant, before the commencement of the work, shall enter into a written agreement to defray the expenses of, and incident to, making such roadway, or of making and closing or removing such watercourse or dam.

In any case of emergency the officer in immediate charge of an embankment, subject to such general instructions as he may receive from the officer in charge of the embankments of the district, or from the Superintendent of Embankments, may cause a temporary watercourse to be made through such embankment.

Annual speci-  
fications and  
estimate for

11. *Clause 1*.—Specifications of the work and estimates of the expense which may be required for the maintenance or improvement of embankments

of 1855 ]

THE BENGAL EMBANKMENT ACT, 1855

(Sec 11)

kept up at the expense of zamindars or others shall be prepared as soon after the rains in each year as may be practicable

maintaining  
or improving  
embankments  
kept up at  
expense of  
zamindars

Copies of the specifications and estimates shall be transmitted to the office of the Collector, and may be examined by any person interested in the embankments

Notice of the receipt of the specifications and estimates shall be posted up in the Collector's office, and, should any objection be preferred by any such person within a period of one month from the date of such notice, the Collector shall communicate the objection, with his own opinion thereupon, to the Superintendent of Embankments, who shall pass such orders as may appear to him reasonable and proper.

Provided, however, that, if the objection refer to the construction of sluices or other new works, any person dissatisfied with the order of the Superintendent may appeal to the Commissioner, who, subject to the orders of the Board of Revenue and of Government, may disallow the construction of the work.

*Clause 2.*—The accounts of the actual expense incurred in maintaining or improving embankments kept up at the expense of zamindars or others, and in constructing and repairing sluices, and making temporary watercourses or roadways through or over any public embankment, or executing any other work the expense of which may be chargeable to individuals, shall be prepared as soon as possible after the completion of such works, and shall, as soon as such accounts shall have received the sanction of the Superintendent of Embankments, be forwarded to the office of the Collector, and may be there examined by any person interested.

Accounts to  
be forwarded  
to Collector,  
who may re-  
cover as  
arrears of  
Government  
revenue

Notice of the receipt of the accounts shall be posted up in the Collector's office, and if, within one month from the date of such notice, any interested person shall object to the accounts, on the ground either that the work charged for has not been performed, or that the whole sum charged has not been expended, or that the rates of charge are higher than the estimate, the Collector shall inquire into such objection, and, if the objection appear to be well founded, shall communicate the same, with his opinion thereon, to the Superintendent of Embankments.

If the Superintendent concur with the Collector, he shall pass orders accordingly, if he differ, the case shall be reported to the Commissioner, whose decision shall be final.

When the objection shall have been finally disposed of, or, if no objection be preferred when a full month shall have elapsed from the date of notice, the

(Sec. 12)

Collector shall proceed to levy the amount from the parties liable to pay the same, by the process [1] which is or may be in force for the recovery of arrears of Government revenue

Superintendent to report to Collector as to removal of buildings, etc

**12 Clause 1**—Whenever the Superintendent of Embankments shall be of opinion that the removal of any houses, huts or other buildings, situated between a public embankment and the river, is necessary, he shall make a report to that effect, accompanied by a detailed statement of the houses, huts or other buildings to be removed, to the Collector of the district in whose jurisdiction the land on which such houses, huts or other buildings stand, is situated

Collector to give notice to claimants

**Clause 2**—When such report is received the Collector shall cause a notice, containing a general description of the houses, huts or other buildings proposed to be removed, to be affixed in some conspicuous place upon the land, and to be published by proclamation in the nearest bazar, calling on all persons claiming a right in such houses, huts or other buildings to appear in person or by authorized agent at a place to be specified in the notice, on or before a given date, not being less than fifteen days from the date of such proclamation, in order to make known the amount and particulars of their claim to compensation to a jury to be appointed in the following manner:—

Selection of jury

**Clause 3**—The Collector shall direct a Deputy Collector or a principal officer of his establishment to proceed to the spot, and there to select three respectable inhabitants of the neighbourhood, to form with himself a jury for determining the value of the houses, huts or buildings, and, if any dispute should arise, the rights of the claimants

Proceedings of jury

**Clause 4**—The jury shall assess the value of each house, hut or building separately

If in any case they differ, the value shall be assessed according to the opinion of the majority, and, if they be equally divided, the Deputy Collector or other officer as aforesaid shall have a casting vote.

Award of jury.

**Clause 5.**—Having completed their proceedings, the jury shall make their award, which shall contain a schedule of the houses, huts and buildings, the amount of value assessed on each, and the name of the person or persons entitled to receive the same.

The award shall be final and conclusive and not open to question in the Civil Court :

[1] See the enactments printed under the head " Recovery of Public Demands, " in Vol. IV of this Code.

of 1855 ]

THE BENGAL EMBANKMENT ACT, 1855

(Secs 13-17)

Provided always that any person who was not present at the inquiry, or whose claim may have been set aside by the jury, may institute a suit for the value of the property claimed by him against the person to whom payment may have been made under the award

13. The Collector, on receiving the award, shall cause a notice to be affixed in some conspicuous place upon the land, with a citation calling on the parties to appear before him or the Deputy Collector or other officer aforesaid, in person or by authorized agent, at a certain time and place, and receive the amount so awarded, and warning them to remove their houses, huts or other buildings within thirty days from the date of such notice

After award, Collector to give notice of payment, and to remove buildings, etc., in thirty days

14. If, on the expiration of the above-stated period, the houses, huts or other buildings shall have not been previously removed, the Collector shall cause the same to be removed or levelled, and if any expense be incurred in removing or levelling the same, the Collector may sell the materials at public auction in order to defray the charge, delivering any surplus that may remain to the owner.

When Collector may remove buildings, etc., at cost of owners

15. Whoever wilfully obstructs any duly authorized person in removing or levelling any embankment, house, hut or other building shall be liable to be imprisoned for any time not exceeding six months, with or without labour, at the discretion of the Magistrate, or to fine not exceeding two hundred rupees, commutable, if not paid, to a period of imprisonment not exceeding six months, or to both.

Penalty for obstructing officer in discharge of duty

16. Whoever wilfully, and without due authority, cuts through, or attempts to cut through, any embankment, whether public or private, or destroys or attempts to destroy any such embankment, or opens any sluice or watercourse in any such embankment, shall be liable, on conviction before a Magistrate, to be imprisoned for a term not exceeding one year, with or without labour, or to a fine not exceeding two hundred rupees, commutable, if not paid, to a period of imprisonment not exceeding one year, or to both; or, if the Magistrate be of opinion that such punishment is insufficient for the offence, he may commit the offender to the Sessions Court, in which case he shall be liable, on conviction, to imprisonment for a period not exceeding seven years, with or without labour, or to fine, or to both.

Penalty for wilful damage to embankment by cutting, etc

17. Whoever damages any public embankment by making any dam or other obstruction for the purpose of diverting or opposing the current of an embanked river without the permission of the officer in immediate charge of the embankments, or by refusing or neglecting to remove any such dam or

Penalty for other wilful damage.

## THE BENGAL EMBANKMENT ACT, 1855 [Act 32 of 1855]

(Secs 18-21)

## THE BENGAL EMBANKMENT ACT, 1866 [Ben. Act 7 of 1866.]

obstruction at the proper season, or by cutting or otherwise altering the banks of any embanked river, or by removing the earth from such embankment, or by grazing or tethering any cattle or other animals on any such embankment, or by driving stakes into or cutting or rooting out grass growing on, such embankment, or by any other wilful act destroys or diminishes the efficiency of such embankment, shall be liable, on conviction before a Magistrate, to simple imprisonment for a term not exceeding six months, or to a fine not exceeding two hundred rupees, or to both

Jurisdiction  
of Deputy or  
Assistant  
Magistrate

18. Any Deputy or Assistant Magistrate may take cognizance of offences under this Act, and may punish offenders to the extent of the power conferred upon him by the Regulations of the Bengal Code, and by the Acts of the Governor General of India in Council. \* \* \* [1]

19 [Provision of s 13 of Reg 20 of 1817 extended to this Act.] Rep by the Repealing Act, 1874 (16 of 1874)

Right of  
appeal

20. All sentences and orders passed by a Magistrate, Deputy Magistrate or Assistant under this Act shall be appealable, subject to the general provisions which regulate appeals.

Interpreta-  
tion.

21. In the construction of this Act, \* \* \* [2]  
the word "Collector" shall mean any Collector, Deputy Collector or other revenue-officer in independent charge of any district or portion of a district

THE BENGAL EMBANKMENT ACT, 1866  
(BENGAL ACT 7 OF 1866)

## CONTENTS [3]

## PREAMBLE

## SECTION

- 1 Lands for embankments may be acquired under powers for acquiring land for public purposes
2. Charging cost of land acquired, where lands of different owners benefited
3. Mode of inquiry as to proportion chargeable to each estate.

[1] The words "with respect to the punishment of misdemeanours", which were repealed by the Repealing Act, 1874, (16 of 1874), are omitted.

[2] The provision as to number and gender, which was repealed by the Repealing and Amending Act, 1903 (1 of 1903), is omitted. See now the General Clauses Act, 1897 (10 of 1897), s. 18, in General Acts, 1891-98, Ed. 1899, p. 325.

[3] This Table has been newly added.



[Ben Act 7 of 1866] THE BENCAL EMBANKMENT ACT, 1866

SECTION

- 4 Power to make award stating names of owners of lands benefited and proportion of cost payable  
No appeal from award, but one owner may recover from another not assessed or under-assessed
- 5 Expense included in cost of acquiring land
- 6 Expenses of sluice apportioned where lands of different owners benefited
- 7 Disposal of lands no longer required for embankments
- 8 Collector may delegate powers to Deputy Collector
- 9 Act does not apply where obligation to provide land exists
- 10 Interpretation

THE BENGAL EMBANKMENT ACT, 1866 [1]

(BENGAL ACT 7 OF 1866)

[9th May, 1866]

An Act to make better provision for the acquisition of land for embankments, and other matters relating thereto

WHEREAS it is expedient to make better provision for the acquisition of land required for embankments, and for charging the expense thereof upon the owners of lands benefited thereby, Be it enacted — Preamble

1. When it shall be necessary for any Collector to acquire land for the purpose of constructing any public embankment, or of extending or altering any embankment, the superintendence or charge whereof is vested in an officer of Government, the provisions of Act 6 of 1857,[2] passed by the Lands for embankments may be acquired under powers for acquiring land

[1] SHORT TITLE — This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), *ante*, p. 18.

LEGISLATIVE PAPERS — For Statement of Objects and Reasons, *see* Calcutta Gazette, 1866, p. 203

LOCAL EXTENT — Since this Act contains no local extent clause, it must be taken to have extended to the whole of Bengal. It has, however, been repealed everywhere, except in Orissa and the Sunderbans, by the Bengal Embankment Act, 1873 (Ben Act 6 of 1873), parts of which are printed, *post*, p. 418

The application of the Act is barred in the de-regulationised tracts in Bengal as follows, namely —

- in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s. 3 (2), *ante*, p. 257,
- in the Chittagong Hill tracts, by the Chittagong Hill tracts Regulation, 1900 (1 of 1900), s. 4 (2), *ante*, p. 282, and
- in the Sonthal Pargana as, by the Sonthal Parganas Settlement Regulation (3 of 1872), s. 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3, *ante*, p. 294.

REPRINT — This Act is reprinted in the Irrigation Manual, 1897, Vol. II, p. 7.

[2] Act 6 of 1857 was repealed by Act 10 of 1870, which again has been repealed and re-enacted by the Land Acquisition Act, 1894 (1 of 1894). This reference should now be construed to be made to the latter Act—*see* section 2 (3) thereof, in General Acts, 1891-98. Ed 1899, p. 101

for public pur-  
poses

Governor General of India in Council, entitled "an Act for the acquisition of land for public purposes," or of any other Act for the time being in force relating to the acquisition of land for public purposes, shall extend and apply to the acquisition of such land for the purpose aforesaid, so far as the same shall be applicable,

and such Collector shall and may take and acquire such land, and assess compensation for the same, and do all other acts necessary for the acquisition thereof, by and under the powers and provisions of such Act or Acts so far as the same is or are applicable in that behalf, but no such declarations or orders by or on behalf of Government as are mentioned in sections 2 and 3 of the said Act 6 of 1857, [1] shall be necessary or required

Any person to whom compensation has been awarded in respect of lands taken shall be entitled to receive the same together with interest after the rate of six *per centum per annum* from the time when the land was taken.

Provided that, notwithstanding anything contained in section 7, *Clause 1*, of Act 32 of 1855 [2] passed by the Governor General of India in Council, entitled "An Act relating to embankments," it shall not be obligatory upon the Collector to pay to any person, nor shall any person have a right to a civil suit for the recovery of, any money in respect of compensation for lands taken, where the same is payable as hereinafter provided by the persons whose lands are benefited, until and unless the Collector shall have received the same from such person

Charging cost  
of land ac-  
quired, where  
lands of differ-  
ent owners  
benefited.

2. In cases where lands, the property of different owners, will in the opinion of the Collector derive benefit from the construction, alteration or extension of any public embankment, and it is necessary to acquire land for the purpose of such construction, alteration or extension, it shall be lawful for such Collector to charge the cost of such land and the expense attending its acquisition upon the persons so deriving such benefit, in such proportions as in his opinion shall be equivalent to the benefit derived by their lands respectively

Before assessing such contribution the Collector shall cause a notice to be served on each of such persons, in which it shall be stated what land is being taken, and the purpose for which it is required, and that the lands of such

[1] Act 6 of 1857 was repealed by Act 10 of 1870, which again has been repealed and re-enacted by the Land Acquisition Act, 1894 (1 of 1894). This reference should now be construed to be made to the latter Act—see section 2 (3) thereof, in General Acts, 1891-98, Ed 1899, p. 101.

[2] The Bengal Embankment Act, 1855. It is printed *ante*, p. 402

of 1866 ]

THE BENGAL EMBANKMENT ACT, 1866

(Secs 3, 4)

person will derive benefit from the execution of the works, and giving him notice that an inquiry will be held, at a day and place to be named, for the purpose of apportioning amongst the persons whose lands will be benefited by the intended works the cost of the land and the expense of acquiring it

In case such person does not reside within the district in which his lands are situate, the notice may be served upon his agent, or, if he has no agent therein, it will be sufficient to affix the notice upon some conspicuous part of his estate

3 On the day fixed in the notice, which shall not be less than one month later than the date of service of such notice, the Collector shall proceed to make the necessary inquiry for the determination of the proportion in which the estates affected by the construction, extension or alteration of the embankment will be benefited thereby

Mode of inquiry as to proportion chargeable to each estate

In making this inquiry he shall receive such evidence as may be tendered by or on behalf of the owners of estates which may appear likely to be benefited by the construction, extension or alteration of the embankment as aforesaid, and by and on behalf of any other persons who may claim to be interested in the said inquiry, and he may make or cause to be made such local investigation, and call for such documents, and examine such witnesses, as he may think necessary, and all the provisions of the law<sup>[1]</sup> for the time being in force in regard to the examination of witnesses and production of documents in judicial proceedings shall be applicable to inquiries conducted by the Collector under this Act

4 The Collector shall and may after such inquiry make an award, in which he shall find and state the names of the persons whose lands will be or are benefited by the construction, alteration or extension of such embankment, and the proportion of the cost of the land and the expense of its acquisition (including therein the cost of the said inquiry) which they ought, respectively, to bear

Power to make award stating names of owners of lands benefited and proportion of cost payable.

No appeal shall lie from the award of the Collector.

But it shall be competent to the owner of any land assessed to a larger amount than his fair proportion to recover such excess in the Civil Court from the owner of any land or estate benefited thereby upon whom no assessment has been made or a smaller amount has been assessed than ought to have been awarded against him ;

No appeal from award, but one owner may recover from another not assessed or under assessed

[1] See now Act XIV of 1882 (the Code of Civil Procedure) Chapters XIV and XV, in General Acts, 1882-84, Ed. 1898, pp. 309, 313.

Provided that in such suit no more shall be recovered from any person than the amount to which he ought to have been assessed where he has not been required to contribute, or the amount by which the sum he was required to pay was less than his fair proportion where he has been required to contribute.

Expense in  
cluded in  
cost of acquir-  
ing land

5. There shall be included in the expense of acquiring the land so to be distributed amongst the persons benefited not only the compensation awarded to the owner of the land taken, including interest at the rate of *six per centum per annum* from the time when the land was taken, but also the cost of surveys and plans, of notices, of the said inquiry and award, and all other costs, charges and expenses incident to obtaining possession of such land

The amount so awarded shall and may be recovered from the person so required to pay the same in the same way and by the same means as arrears of Government revenue [1]

Expenses of  
sluice appor-  
tioned where  
lands of differ-  
ent owners  
benefited

6. When application has been made to the Collector under section 8 of the said Act 32 of 1855 [1] for the construction of a sluice in any public embankment, and in the opinion of the Collector lands, the property of other persons as well as of the person making the application, will be benefited by the construction of the sluice, the expense of such construction may be assessed upon and recovered from such persons in such shares or proportions as shall, in the opinion of the Collector, be equivalent to the benefit derived by their lands, respectively.

Provided, nevertheless, that notice in writing shall be served on all such persons, stating that it is proposed to make such sluice, the probable expense thereof, and that an inquiry will be held at a place and hour specified, for the purpose of apportioning the expense of such construction among the persons to be benefited thereby, and that such person is supposed to be likely to be benefited thereby.

And such notice may be served, and such inquiry shall be held, and such award shall be made, subject to the same rules, powers and provisos in all respects as is hereinbefore provided in the case of the apportionment of the cost of land required for embankments

And the said award shall be final: but a civil suit may be brought to recover any excess with which any such person may be charged from persons who ought to have been charged but have not been charged with any portion of

[1] See the enactments printed under the head "Recovery of Public Demands," in Vol. IV of this Code.

[2] The Bengal Embankment Act, 1855 It is printed *ante*, p. 402.

of 1866 ]

THE BENGAL EMBANKMENT ACT, 1866

(Secs 7-10)

the expense or against whom less has been awarded than their fair proportion, as hereinbefore provided with respect to the apportionment of the cost of land

7 Whenever, in consequence of the construction or alteration of any public embankment, the maintenance of any other public embankment, or the retention of any land appropriated to the purposes thereof, may no longer be required, and the permanent relinquishment of the same may be deemed expedient by the officer in charge of the embankments, it shall be lawful for the Collector to dispose of the site of the embankment, or of the land so abandoned by public sale, and all the provisions of the law for the time being in force in regard to sales of land in default of payment of the Government revenue<sup>[1]</sup> shall be applicable, so far as the same may be reasonably applied, to sales under the provisions of this section

Disposal of lands no longer required for embankments

The proceeds of such sales shall, after the payment of all expenses incurred on account of the same, be applied to the payment of the cost of the new land taken up for embankment-purposes, and in such case the residue only of the cost of such new land shall be apportioned among the owners of lands benefited as hereinbefore provided

Provided that it shall not be competent to the Collector to sell in the manner aforesaid any land which shall not have been taken up for embankment-purposes under the provisions of this Act.

8 A Collector may delegate any of his powers under this Act to a Deputy Collector, but from any order passed by a Deputy Collector to whom powers have been so delegated an appeal shall lie to the Collector, if presented within fifteen days of the date of the order.

Collector may delegate powers to Deputy Collector

9. Nothing in this Act shall be held to exempt any person from the obligation of giving land gratuitously, or of paying for land taken up for the purpose of public embankments, where such obligation exists by any law or custom

Act does not apply where obligation to provide land exists. Interpretation.

10 The following words and expressions shall have the several meanings hereby assigned to them, unless where a contrary intention appears from the context.

\* \* \* \* \*

the word "Collector" shall include any officer exercising, by authority of Government, the duties of a Collector of land-revenue, by whatever name his office may be designated:

[1] See the enactments printed under the head "Recovery of Public Demands," in Vol IV of this Code

[2] The provision as to number and gender, which was repealed by the Repealing and (Amending) Act, 1903 (1 of 1903), is omitted See now the Bengal General Clauses Act, 1829 (Ben Act 1 of 1899), s 14, ante, p 10

THE BENGAL EMBANKMENT ACT, 1866 [Ben Act 7 of 1866.]

(*Sec 10*)

THE BENGAL EMBANKMENT ACT, 1873 [Ben Act 6 of 1873.]

(*Sec 12*)

“Owner”

the word “owner” shall include zamindars holders of patni tenures or of any rent-free tenure, dependent talukdars, Sundarbans grantees and farmers or holders of tenures paying revenue direct to Government

## THE BENGAL EMBANKMENT ACT, 1873

(BENGAL ACT 6 OF 1873) [1]

[Sections 12, 13, 21 (proviso) and 26 to 29, and Schedules B to E]

[24th December, 1873]

Power to take  
possession of  
land

12. Whenever any land, or earth from any land, the property of any person, is required for the purposes of any works commenced in pursuance of the provisions of [the last preceding section][2], or for the purposes of [section 18][3] in cases where the Collector shall be of opinion that proceedings for the acquisition of such land according to the provisions hereinafter contained in [section 25][4] would cause delay as aforesaid, the Collector shall cause a proclamation to be issued in form in Schedule B annexed to this Act, giving

[1] LEGISLATIVE PAPERS — For Statement of Objects and Reasons, *see* Calcutta Gazette, 1871, p 73, for Report of Select Committee, *see ibid*, 1873, Pt IV, pp 257; and for Proceedings in Council, *see ibid* Supplement, 1870, p 740, 829 and 835, Supplement, 1871, pp 25, 265, 353 and 797, Supplement, 1873, pp 68, 113, 197, 248, 375, 382, 632, 1265, 1300 and 1588

LOCAL EXTENT — This Act was declared by section 1 to extend to the whole of Bengal except Orissa and the Sundarbans

It was further declared, by Notification No 1394, dated the 21st October, 1881, issued under the Scheduled Districts Act, 1874 (14 of 1874), section 3, to be in force in the following Scheduled Districts, namely —

the Hazaribagh, Ranchi, Palamau and Manbhum Districts, and Pargana Dhalbhum and the Kolhan in the Singhbhum District, in the Chota Nagpur Division—*see* Vol V, Part V B (b)

The whole of the Act, except sections 12, 13, 21 (proviso) and 26 to 29 and Schedules B to E, has since been repealed by the Bengal Embankment Act, 1882 (Ben Act 2 of 1882), *post*, p 455

The application of the Act is barred in the de-regulationised tracts in Bengal, as follows, namely —

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s 3 (2), *ante*, p 257,

in the Chittagong Hill tracts, by the Chittagong Hill tracts Regulation, 1900 (1 of 1900), s 4 (2) *ante*, p 282, and

in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s 3 (2) as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s 3, *ante*, p 294

REPRINT — The unrepealed portions of this Act are reprinted in the Irrigation Manual, 1897, Vol. II, p 22.

RESTRICTION ON APPLICATION — Nothing in this Act applies to any canal or flood embankment as defined in the Bengal Irrigation Act, 1876 (Ben Act 3 of 1876).—*see* Ben Act 3 of 1876, s 4, in Vol II of this Code.

[2] This reference is now to be read as a reference to section 25 of the Bengal Embankment Act, 1882 (Ben Act 2 of 1882)—*see* that Act, s 2 and Sch 2, *post*, pp 456 and 484

[3] This reference is now to be read as a reference to section 30 of the Bengal Embankment Act, 1882 (Ben Act 2 of 1882)—*see ibid*.

[4] This reference is now to be read as a reference to section 37 of the Bengal Embankment Act, 1882 (Ben Act 2 of 1882)—*see ibid*.

of 1873 ]

THE PENGAL EMBANKMENT ACT, 1873

(Secs 13, 21 (prov), 26—28)

notice thereof at convenient places in the locality in which such land is situated, and he may at the same time take possession of the same for the said purposes

13 The Collector shall ascertain and record the nature and estimated value of the crops and trees (if any) standing on such land, and shall offer adequate compensation to the persons interested

Compensation for standing crops and trees

If such offer is not accepted, the value of such crops and trees shall be allowed for in awarding compensation for the land under the provisions of section 29

21 (proviso) Provided always that, in case the Collector be of opinion that the delay required by [such proceedings] [1] is likely to be attended with grave and imminent danger to life or property, it shall be lawful for him forthwith to cause such trees, houses, huts or buildings to be removed, and in such case the compensation due therefor shall be ascertained and paid in the manner hereinafter provided

26 Whenever any land shall have been taken or used under the provisions of [Part III] [2] the Collector shall cause a proclamation[3] to be issued in form in Schedule C annexed to this Act at convenient places on or near the land so taken, stating that Government has taken possession of the land, and that claims to compensation for all interests in such land shall be made to him

When land taken, proclamation to be published

Thereupon the land shall vest absolutely in the Government free from all incumbrances, subject however to the claims for compensation to be ascertained in manner as in [this Part] [4] is provided

27 Such proclamation shall state the particulars of the land so taken, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than 15 days after the date of issuing the proclamation), and to state the nature of their respective interests in the land, and the amount and particulars of their claims to compensation for such interest

Contents of proclamation

28 The Collector shall also serve notice[3] to the same effect on the occupier (if any) of such land, and on all such persons known or believed to be interested therein or to be entitled to act for persons so interested, as reside,

Further notice to be served on certain parties

[1] This reference to "such proceedings" is now to be read as a reference to section 19 of the Bengal Embankment Act, 1882 (Ben Act 2 of 1882)—see that Act, s 2 and Sch 2, *post*, pp 456 and 484

[2] This reference is now to be read as a reference to Part III of the Bengal Embankment Act, 1882 (Ben Act 2 of 1882)—see *ibid*

[3] As to the mode of publishing proclamations mentioned in s 26, and serving notices mentioned in s 28, see ss 2, 80 and 81 of the Bengal Embankment Act, 1882 (Ben Act 2 of 1882), *post*, pp 456 and 480.

[4] This reference is now to be read as a reference to Part V of the Bengal Embankment Act, 1882 (Ben Act 2 of 1882)—see that Act, s. 2 and Sch 2, *post*, pp. 456 and 484.

## THE BENGAL EMBANKMENT ACT, 1873

[Ben Act 6

(Sec 29—Schedules B and C.)

or have agents authorized to receive service on their behalf, within the revenue-district in which the land is situate

Proceedings  
after notice

29 After service of such notice proceedings shall be had and taken to determine the amount of compensation to be payable in respect of such land, in accordance with the provisions of the Land Acquisition Act, 10 of 1870, or any other law<sup>[1]</sup> for the time being in force for the acquisition of land for public purposes

## SCHEDULE B (referred to in section 12)

Notice is hereby given that, under the provisions of section 11<sup>[2]</sup> of the Bengal Embankment Act, 1873, the land hereunder specified has been taken up, and notice thereof has been given to the Collector of

1	2	3
Pargana in which land is situated	Name of village in which land is situated	Approximate boundaries and area of land

The day of

A. B.,  
Collector of

## SCHEDULE C (referred to in section 26)

All persons interested are required to take notice that, under the provisions of section 11 [2] of the Bengal Embankment Act, 1873, the Collector of has taken possession on account of the Government of *[here state particulars of the land taken]*, and that claims to compensation for all interests in such land must be made to the Collector. All persons having any such claims are therefore required to appear personally or by agent on day of at , and to state the nature of their respective interests in such land and the amount and particulars of their claims to compensation for such interests.

The day of .

A. B.,  
Collector of

[1] See now the Land Acquisition Act, 1894 (1 of 1894—printed in General Acts, 1891-98, Ed. 1899, p. 100), which repeals and re-enacts Act 10 of 1870.

[2] Section 11 of this Act has been repealed by the Bengal Embankment Act, 1882 (Ben. Act 2 of 1882), s. 2, printed part, p. 456.



of 1873.]

THE BENGAL EMBANKMENT ACT, 1873

(Schedule D)

SCHEDULE D (*referred to in sections 34, 35 and 40*).[1]

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No 1

*Right Embankment on the Shildā River from Ishnagar to Kola*

[*Excluded by Notification No 338, dated the 19th December, 1893, published in Calcutta Gazette, 1893, Pt I, p 1072*]

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No 2

*Right Embankment on the Shildā River from Chota Rápram to Naruyá*

[*Excluded by Notification No 338, dated the 19th December, 1893, published in Calcutta Gazette, 1893, Pt I, p 1072*]

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No 3

*Right Embankment on the Shildā River from Shrirámpur to Gánchú*

This is a continuous line of embankment on the right bank of the Shildā river, 7 miles 2,686 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Shrirámpur of pargana Chandia-koná, and terminates at a masonry-pillar in the village of Gánchú in the said pargana.

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No 4

*Left Embankment of the Shildā River from Karshí to Kalúkádí*

[*Excluded by Notification No. 338, dated the 19th December, 1893, published in Calcutta Gazette, 1893, Pt I, p 1072.*]

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[1] Sections 34, 35 and 40 of this Act have been repealed by the Bengal Embankment Act, 1882 (Ben Act 2 of 1882), s 2, printed *post*, p 455

Section 4 (*post*, p. 457) of the Bengal Embankment Act, 1883, declares that the embankments mentioned in this Schedule shall be held on behalf of the Government

Section 43 (*post*, p 468) of the same Act authorises the inclusion of other embankments or water courses in the Schedule and the exclusion of embankments or water-courses therefrom. The Schedule has been amended in accordance with the several notifications and orders which have been issued under these powers up to the 14th June, 1904.

Section 42 (*post*, p. 468) of the same Act declares that sections 47, *et seq*, of Part VI of that Act shall not apply to any embankments for the time being included in this Schedule, except in certain cases, and also declares that all sums payable in respect of works or repairs executed in or in relation to such embankments shall, with certain exceptions, be paid by the Government.

## No 5

*Left Embankment of the Shilá River from Bághpotá to Rádháchak*

This is a continuous line of embankment on the left bank of the Shilá river, 20 mile-630 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Bághpotá of pargana Chandkrakoná, and terminates at a masonry-pillar in the village of Rádháchak of pargana Baradá.

## No. 6

*Left Embankment of the Dwáreshwar and Sánkra Rivers*

This is a continuous line of embankment on the left bank of the Dwáreshwar and Sánkra rivers, 5 miles 250 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Ramnagar of pargana Baydá, and terminates at a masonry-pillar in the village of Gásna of pargana Jahánabad.

## No 7.

*Right Embankment of the Dwarkeshwar and Jhumi Rivers.*

This is a continuous line of embankment on the right bank of the Dwáreshwar and Jhumi rivers, 6 miles 3,200 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Digdi of pargana Baydá, and terminates at a masonry-pillar in the village of Soi of pargana Baradá.

## No. 8

*Left Embankment on the Bakshi Khal*

This is a continuous line of embankment on the left bank of the Bakshi Khal, 6 miles 4,330 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Bakshi of pargana Khauji Mandalgát, and near the junction of the Rupnarain river and Bakshi Khal, and terminates at a masonry-pillar in the village of Gáigháti in the said pargana where the Gáigháti Khal leaves the Damodar.

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No 9

*Right Embankment on the Rupnarain River*

This is a continuous line of embankment on the right bank of the river Rupnarain, 29 miles 2,373 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground distant 57 feet south-east by compass from the Máchnán masonry-sluice on the right bank of the Durbáchatí Khal, in the village of Máchnán of pargana Mandalghát, and terminates at a masonry-pillar at the zero mile post on the bank of the Tidal Canal, Reach I. This mile-post bears 500 feet south-west by compass from the Canal Toll-house, in the village of Kámálpur of pargana Mahishadal]

[The following Notification has been published with respect to this embankment —

Notification No 224, dated the 11th November, 1902, published in the Calcutta Gazette, 1902, Pt I, p 1488.

In modification of the description of the right embankment on the Rupnarain river, being No 9 in Schedule D of Act VI (B C.) of 1873, the following is published for general information —

No 9.

*Right embankment on the Rupnarain river*

This is a continuous line of embankment on the right bank of the river Rupnarain, 29 miles 2,373 feet, more or less, in length. It commences at a masonry pillar fixed in the ground, distant 57 feet south-east by compass from the Jassur masonry sluice on the right bank of the Durbachatti khal, in the village of Salika of pargana Mandalghat, and terminates at a masonry pillar on the bank of the Banka Khal. This masonry pillar is 240 feet north of the Pile Bridge over the Banka Khal, in the village of Kamalpore in pargana Mahisadal

NOTE — 26 miles 894 feet are maintained by the Public Works Department, and the remaining 3 miles 1,479 feet, being portion of the embankment through Tamruk, are in charge of the Municipality and the District Board.]

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## No 10

*Right Embankment on the Páyrátungi Khal*

This is a continuous line of embankment on the right bank of the Páyrátungi Khal, 4,410 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Páyrátungi of pargana Tamluk, on the Rupnarain embankment, right bank, and terminates at a masonry pillar distant 187 feet west of a temple on the Tamluk road, in the village of Bárapadubasan in the said pargana.

## No 11

*Left Embankment on the Páyrátungi Khal*

This is a continuous line of embankment on the left bank of the Páyrátungi Khal, 4,370 feet, more or less, in length. It commences at a masonry-pillar in the ground in the village of Páyrátungi of pargana Tamluk, and on the Rupnarain embankment, right bank, and terminates at a masonry-pillar in the village of Bárapadubasan in the said pargana.

## No 12

*Right Embankment on the Gangákháli Khal*

This is a continuous line of embankment on the right bank of the Gangákháli Khal, 3 miles 3,480 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Sudbápur of pargana Tamluk, on the Rupnarain embankment, right bank, and terminates at a masonry-pillar distant 675 feet east of the Raghunáthpur masonry-sludge, in the village of Sayadpur in the said pargana.

## No. 13

*Left Embankment on the Gangákháli Khal*

This is a continuous line of embankment on the left bank of the Gangákháli Khal, 3 miles 1,670 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Mahishdá of pargana Tamluk on the Rupnarain embankment, right bank, and terminates at a masonry-pillar, distant 170 feet north-east of the Raghunáthpur masonry-sludge on the right bank of the Gangákháli Khal, in the village of Raghunáthpur in the said pargana.

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No 14

*Right Embankment on the Shuádighi Khal*

This is a continuous line of embankment on the right bank of the Shuádighi Khal, 2 miles 3,990 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Shuádighi of pargana Tamluk, on the Rupnarain embankment, right bank, and terminates at a masonry-pillar in the village of Jashomantapur in the said pargana

No 15

*Left Embankment on the Shuádighi Khal*

This is a continuous line of embankment on the left bank of the Shuádighi Khal, 2 miles 1,690 feet, more or less, in length. It commences at a masonry pillar fixed in the ground in the village of Shuádighi of pargana Tamluk, on the Rupnarain embankment, right bank, and terminates at a masonry-pillar in the village of Hoglá in the said pargana

No 16

*Right Embankment on the Durbáchatti Khal.*

This is a continuous line of embankment on the right bank of the Durbáchatti Khal, 1 mile 3,510 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground at a distance of 550 feet north-north-east of the Bhúdaha Factory Chimney in the village of Bhúdaha of pargana Mandal-ghát, and terminates at a masonry-pillar distant 57 feet south-east of the Máchnán masonry-sluice in the village of Máchnán in the said pargana.

[The following Notification has been published with respect to this embankment.—

Notification No. 223, dated the 11th November, 1902, published in the Calcutta Gazette, 1902, Pt. I, p. 1488.

In modification of the description and length of the right embankment on the Durbáchatti Khal, being No. 16 in Schedule D of Act VI (B. C.) of 1873, the following is published for general information.—

No. 16.

*Right embankment on the Durbáchatti Khal.*

This is a continuous line of embankment on the right bank of the Durbáchatti Khal, 2 miles, 960 feet, more or less, in length. It commences at a

*masonry pillar fixed in the ground at a distance of 550 feet north-north-east of the Bhudab Factory Chimney in the village of Bhudab of pargana Mandalghat, and terminates at a masonry pillar, distant 57 feet south-east of the Jassur masonry sluice in the village of Salikz in the said pargana.]*

## No. 17

*Mohankhali Circuit Embankment*

This is a circuit embankment 28 miles 3,253 feet, more or less, in length. It commences at a masonry pillar fixed in the village of Kultiki where the Mohankhali river runs into the Rupnaiam river, and passing along the right bank of the Mohankhali river through the villages of Jothghanashyam, Sitapur Manuyá to Basantapur, where the Mohankhali and Durbáchatí rivers bifurcate, thence skirting the left bank of the Durbáchatí river it passes through the villages of Shápur, Basánpur, and Brahmagruha to Kachda, thence skirting the Rupnaiam, right bank, it passes through the village of Dudhkomia and Bágchená, and terminates at the masonry-pillar aforesaid.

## No 18

*Párná Circuit Embankment*

This is a circuit embankment 9 miles 3,610 feet, more or less, in length. It commences at a masonry-pillar built in the ground on the left bank of the Shilái river at its junction with the Kánsái river near a temple in the village of Báragovinda, pargana Baradá. It passes through the villages of Barmadihi and Ránibázar, on the left bank of the Shilái river, and then along the right bank of the Kántá Khal through the villages of Bhángádaha, Parná, Barmaidihil, Tabli, and Dharmapur, and terminates at the aforesaid pillar.

## No 19

*Ghátál Circuit Embankment*

This is a circuit embankment 10 miles 1,850 feet, more or less, in length. It commences at a masonry-pillar built in the ground on the left bank of the Shilái river at its bifurcation with the Árgará river, and passing along the left bank of the Shilái river and through the villages of Shrinámpur, Básudevpur and Sinnapur, it skirts the right bank of the Árgará Khal through the villages

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of Rámchandiapur, Raghunáthchak and others, and terminates at the masonry-pillar aforesaid

No 20

*Shekhpur Circuit Embankment*

This is a circuit embankment 18 miles 5,108 feet, more or less, in length. It commences at a masonry pillar built in the ground at the bifurcation of the rivers Sankhá and Jhumi in the village of Shekhpur of pargana Baydá, and passing along the left bank of the Jhumi river through the villages of Shumantapur, Anandapur and Thakunchak thence along the right bank of the Sankhá river through the villages of Narasuhachak, Kulát, Guját and others, terminates at the aforesaid masonry-pillar.

No 21

*Khasbar Circuit Embankment*

This is a circuit embankment 5 miles 5,240 feet, more or less, in length. It commences at a masonry-pillar built in the ground at the point of bifurcation of the Jhumi and Ámdá rivers in the village of Lálehak, pargana Baradá, and passing along the right bank of the Jhumi river through the villages of Párvatichak, Prasádechak and Jaybágh, and thence along the left bank of the Ámdá river through the villages of Khásbar, Sor and Lálehak, it terminates at the aforesaid masonry-pillar.

No 22.

*Chetuya Circuit Embankment.*

This is a circuit embankment 45 miles 1,420 feet, more or less, in length. It commences at a masonry-pillar built in the ground at the junction of the Rupnarain river and Mohánkál khal in the village of Mahishghátá, pargana Kharij Mandalgát, and passing along the left bank of the Mohankhál khal through the villages of Dakhibái, Gaurichak, Govindanagar and Basantapur, thence along the left bank of the Kánsá river through the villages of Kola, Maheshpur, Gokulnagar and Islámpur, thence along the right bank of the Shilái river through the villages of Suiathpur, Raghunáthpur and Konnagar, to the junction of the Shilái and Rupnarain rivers at Pratappur, and thence along the right bank of the Rupnarain river through the villages of Harishpur,

Jalkanáám, Ráncak and Gopiganja, it terminates at the aforesaid masonry-pillar

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No 23

*Dushwáspur Circuit Embankment*

This is a circuit embankment 18 miles 2,350 feet, more or less, in length. It commences at a masonry-pillar built in the ground on the right bank of the Kánsái river, distant 704 feet and bearing  $20^{\circ}$  from the Dushwáspur sluice in the village of Dushwaspur of pargana Chetuyá, and passing along the right bank of the Kánsái river through the villages of Nabindaspur, Kunjapur, Maheshpur, Telándi, and Brikshabánpur, thence passing along the left bank of the Petuyá khal through the villages of Fátchpur, Gadápur and Dhánkhólá, it terminates at another masonry-pillar in the village of Krittibaspur, pargana Chetuyá

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No 24

*Náddjol Embankment*

This is an embankment 7 miles 1,735 feet, more or less, in length. It commences at a masonry-pillar built in the ground on the left bank of the Kánsái river in the village of Sámát, pargana Chetuyá, and passing along the left bank of the Kánsái river to the village of Madanmohanpur, and thence along the right bank of the Shilái river through the village of Rámadevpur, it terminates at another masonry-pillar in the village of Chandikháli, pargana Chetuyá

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No. 25

*Brindávanchack Embankment*

This is an embankment 2 miles 800 feet, more or less, in length. It commences at a masonry-pillar built in the ground in the village of Brindávanchack, pargana Khariji Mandalghát, and running along the right bank of the Durbáchati Khal, terminates at another masonry-pillar in the same village

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No. 26.

*Dhángadiyá Embankment.*

[Excluded by Notification dated the 24th November, 1887, published in Calcutta Gazette, 1887, Pt. I., p 961.]



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No 27

*Right Embankment on the Ajar River*

This is a continuous line of embankment on the right bank of the Ajar river, 7 miles 3,980 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Gaubázar of pargana Sheigad, and terminates at a masonry-pillar at the junction of the Tumri Khal with the Ajar river in the village of Kajládih of pargana Shanpáhádí.

No 28

*Right Embankment on the Ajar River*

This is a continuous line of embankment on the right bank of the Ajar river, 4 miles, more or less, in length. It commences at a masonry-pillar fixed in the ground near a masonry-sluice near the junction of the Tumri and Bálpáhádí Khals in the village of Vishnupur of pargana Shanpáhádí, and terminates at the masonry-pillar in the village of Arjunbani in the said pargana.

No 29

*Right Embankment on the Ajar River.*

This is a continuous line of embankment on the right bank of the Ajar river, 11 miles, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Sátkoníya, pargana Shaupáhádí, and terminates at a masonry-pillar in the village of Sagarpostá of pargana Gopibhúm.

No 30.

*Left Embankment on the Ajar River.*

This is a continuous line of embankment on the left bank of the Ajar river, 3 miles, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Sinhi of pargana Azmatsháhi, and terminates at a masonry-pillar in the village of Bámun'yá in the said pargana.

No. 31.

*Right Embankment on the Damodar River.*

This is a continuous line of embankment on the right bank of the Damodar

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river, 4,488 feet, more or less, in length It commences at a masonry-pillar fixed in the ground in the village of Sadipur of paigana Haveli, and terminates at a masonry-pillar in the village of Krishnapur in the said paigana

[*This embankment has been removed under Bengal Government's Order No 674 I, dated the 17th April, 1891*]

## No 32

*Left Embankment on the Damodar River*

This is a continuous line of embankment on the left bank of the Damodar river, 107 miles, more or less, in length It commences at a masonry-pillar fixed in the ground in the village of Shiliya, paigana Champánagar, and terminates at a masonry pillar in the village of Alipore of paigana Mandalghât

## No 32 A.

*Left Bank of Damodar River*

This is a continuous embankment about 8 miles, more or less, in length It commences at a masonry-pillar in the main embankment at its bifurcation therewith in the village of Chancuai, and forms nearly a chord line with the edge of the river Damodar, forming part of the Mymuée Road in the village of Kusbah, and terminates at a masonry-pillar in the village of Joytampur, north east of Kalnah, where it again joins the main line of embankment

[*No 32 A was included in this Schedule by Notification No 315, dated the 16th August, 1875, published in Calcutta Gazette, 1875, Pt I, page 1073*]

## No 33.

*Right Embankment on the Damodar River.*

This is a continuous line of embankment on the right bank of the Damodar river, 1 mile 260 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Lákiyá, paigana Háveli, and terminates at a masonry-pillar in the village of Bedgrám in the said pargana.

[*This embankment has been removed under Bengal Government's Order No. 674 I, dated the 17th April, 1891.*]

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No 34

*Right Embankment on the Damodar River*

This is a continuous line of embankment on the right bank of the Damodar river, 3,828 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Balaiámpur, pargana Háveli, and terminates at a masonry-pillar in the said village.

[This embankment has been removed under Bengal Government's Order No 674 I, dated the 17th April, 1891.]

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No 35.

*Right Embankment on the Damodar River*

This is a continuous line of embankment on the right bank of the Damodar river, 1 mile 528 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Jángirpur, pargana Háveli, and terminates at a masonry-pillar in the village of Shrikúshnapur in the said pargana.

[This embankment has been removed under Bengal Government's Order No 674 I, dated the 17th April, 1891.]

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No 36.

*Right Embankment on the Damodar River*

This is a continuous line of embankment on the right bank of the Damodar river, 18 miles, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Wazirpur, pargana Háveli, and terminates at a masonry-pillar in the village of Dihí Bársat of pargana Bársat.

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No 37.

*Right Embankment on the Damodar River.*

This is a continuous line of embankment on the right bank of the Damodar river, 29 miles 3,560 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground at the junction of the Gáighátí Khal with the Damodar river in the village of Gáighátí, pargana Arsa, and terminates at a masonry-pillar at the junction of the Rupnarain and Hooghly rivers at the thirty-second mile-post on the Rupnarain left embankment in the village of Magiápáthar of pargana Mandalghát.

## No 38

*Left Embankment on the Rupnarain River*

This is a continuous line of embankment on the left bank of the river Rupnarain, 31 miles 3,762 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground at the junction of the Rupnarain river and the Bakshi Khal in the village of Bikshi, pargana Mandalghát, and terminates at a masonry-pillar at the junction of the Hooghly and Rupnarain rivers at the thirty-second mile post of the Rupnarain embankment in the village of Magrápáthai, pargana Mandalghat

## No 39

This is a continuous line of embankment 41 miles and 155 feet, more or less, in length. It commences at a masonry pillar built in the ground in the village of Khodálgobra, pargana Viakul, and, running generally parallel with the coast-line of the Bay of Bengal, terminates at a masonry pillar on the Kánthi and Khejri road on the right bank of the Rasulpur river in the village of Shyámchak, pargana Kaodamál

## No. 40.

This is a continuous line of embankment 30 miles, more or less, in length. It commences at a masonry pillar built in the ground on the Kánthi and Khejri road on the right bank of the Rasulpur river in the village of Shyámchak, pargana Kaodámál, and running along the right bank of the Rasulpur river as far as the Kánthi and Tamluk road, and thence along the right bank of the Shripái river, terminates at a masonry-pillar in the village of Atlagadi, pargana Májuámutá

*[The following portion of this embankment was excluded from this Schedule by Notification No 198, dated the 14th June, 1887 (published in Calcutta Gazette, 1887, Pt I, p 527), namely —*

*a portion, 23 miles and 4,060 feet in length, commencing from the pillar in the village of Atlagori and ending at a pillar on the right bank of the Rasulpur river in the village of Dandaparellia, pargana Bahrimutta]*

## No. 41.

This is a circuit embankment on the right bank of the Rasulpur river

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2 miles 4,868 feet, more or less, in length It commences and terminates at a masonry-pillar built in the ground in the village of Sánbediyá, pargana Bahirimutá

No 42

This is a continuous line of embankment 30 miles, more or less, in length It commences at a masonry pillar built in the ground in the village of Átlá gadi, pargana Májuámutá, and running along the left bank of the Shupái river as far as the village of Keshurkunda on the Kanthi and Midnapore road, and thence in a northerly direction to Chaumukh on the Bagdaha river, and thence along the right bank of the Bahaghái Khal to the east of the Dhubdá Jhil, terminates at a masonry-pillar on the sand-ridge in the village of Mádhavpur, pargana Bhogiai

[The following portions of this embankment were excluded from this Schedule by Notification No 198, dated the 14th June, 1887 (published in Calcutta Gazette, 1887, Pt I, p 527), namely —

a portion from Atlagori to Dakhin Chowmuk, 18 miles in length, and another portion from Balliaghye to Madhubpur, 11 miles in length ]

No 43

[Excluded by Notification No. 198, dated the 14th June, 1887, published in Calcutta Gazette, 1887, Pt I, p 527 ]

No 44

[Excluded by Notification No 198, dated the 14th June, 1887, published in Calcutta Gazette, 1887, Pt. I, p. 527 ]

No. 45.

This is a continuous line of embankment, 95 miles, more or less, in length It commences at a masonry-pillar built in the ground in the village of Rám-chak, pargana Sujámutá, and running along the left bank of the Ekhtiyárpur Khal to its junction with the Madhukháli river, thence running along the left bank of the Madhukháli river to the Chauddachuli Inspection Bungalow at the confluence of the Rasulpur river and the Kunjapur or Tálpati Khal,

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thence running along the left bank of the Kunjapuri or Talpati Khal to its embouchure in the Bay of Bengal, thence running parallel to the coast-line as far as the mouth of the river Haldi, thence following the right bank of this river as far as the junction of the Kaliághai and Kansái rivers, and lastly running along the right bank of the Kaliághái river, terminates at a masonry-pillar at the village of Nilakanthapur, pargana Jalámutá

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 No 46

This is a continuous line of embankment, 5 miles, more or less, in length, on the right bank of the Kaliághai river. It commences at a masonry-pillar built in the ground in the village of Kharan, pargana Patáspur, and terminates at another masonry-pillar in the said village

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 No. 47.

This is a circuit embankment, 3½ miles 1,000 feet, more or less, in length. It commences at a masonry-pillar built in the ground near the Barju ghat in the village of Barju, pargana Nárámutá, and running along the right bank of the Madhukháli river, the left bank of the Bágdaha river, and the right bank of the Chakbhaváni Khal, terminates at the aforesaid pillar. It passes through the villages of Barju, Shimulbádi, Dishimila, Khamgáda, Idalpur, Kalarathári, Nishchintar, Ullalbái, Kanyabár, Bhástágáda, Khálá Kálkadári, Sundalpur, Mallikpur, Ballabhpur, Sukákhola, Udaypur, Gopálpur, Badladápur, Tamalpur, Chákbatá, Kalsái, Kulbediyá, Chakmáthurí, Chakhábaní, Bhanavadári, South Chánda, Mangalpur, Dakshindírá, Pratapdíghi, Bámanbásan, Sitádíghi, Krishnanagar, Paneshwarí, Sháradabar, Mahurá, Chakrashál Khákuda, Mangalchak, Tonábílá, Arjunnagarí, Puruhíyá, Maheshdá, Khamgádá, Máldaha, Bárijí, and parganas Nárámutá, Kásmat Patáspur, Kásmat Dánta, Kharáig, Pratápan, Patáspur and Bhátgad

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 No. 48

This is a circuit embankment, 11 miles 1,541 feet, more or less, in length, lying between the Madhukháli river and Udbádal Khal. It commences at a masonry-pillar built in the ground at the junction of the Madhukháli river and Udbádal Khal in the village of Nátoriýá, pargana Nárámutá, and passing through the villages of Udbádal, Chánpáinagar, Kanásdíghi, Náthará,

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Khátmáí, Itabediyá, Naudighi, Mámkjod Hánsghaiyá, Manikjod Basúdevbediyá, Pátarbediyá, pargana Nainamutá, terminates at the aforesaid pillar

No 49

This is a circuit embankment, 11 miles 1,525 feet, more or less, in length, lying between the Ekhtiyápur Khal, Madhukháli river, and Udbádal Khal. It commences at a masonry-pillar built in the ground at the junction of the Madhukháli river and Ekhtiyápur Khal in the village of Raghunáthchak, pargana Nainámutá, and running along the left bank of the Madhukháli river, left bank of the Udbádal Khal and right bank of the Ekhtiyápur Khal, terminates at the aforesaid pillar. It passes through the villages of Udbádal, Pitna, Dumurdáí, Padutárdi, South Biyada, Ichhápur, Panchghaiyá, Bhúpatnagar, Raghunáthchak, Nandichak, Khorinet, Govindapur, Jagannomhanpur, Champánagar, Khánjádápur, Udbadal, and the parganas of Nainamutá and Kaodamál

No 50

This is a continuous line of embankment, 3 miles 3,255 feet, more or less, in length. It commences at a masonry-pillar built in the ground in the village of Ramchak, pargana Ságamuta, and running along the right bank of the Ekhtiyápur Khal terminates at a pillar in the village of Radhápur, pargana Eunchi

No. 51

This is a circuit embankment, 7 miles 2,735 feet, more or less, in length, between the Káliághai river and the Bágai Khal. It commences at a masonry-pillar built in the ground at the junction of the Káliághai river with the Bágai Khal in the village of Daropátná, pargana Patáspur, and passing through the villages of Gokulpur, Gholahát, Daropátná, pargana Patáspur, terminates at the aforesaid masonry-pillar.

No. 52.

This is a circuit embankment 20 miles, more or less, in length. It commences at a masonry-pillar built in the ground on the south side of the junction of the Tálpati Khal with the Rasulpur river in the village of Gumgad,

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pargana Kasbá Híjli, and running along the left bank of the Rasulpur river to its confluence with the sea, then following the coast-line to the embouchure of the Talpatí Khal in the Bay of Bengal, and thence running along the south bank of the Talpatí Khal, terminates at the aforesaid pillar. It passes through the villages of Gorábár, Davichak, Dandachak, Kathá, Shyámpur, Baghá Padurbediya, Nenapátá, Mohendianagai, Kalágachiyá Páñchbadí, Osilchak, Honábediya, Otakbediya, Salkonda, Sahebehiak, Bamanchak, Badabádí, Phulbádí and Mulichak, all in the pargana Kaská Híjli

## No 53

This is a continuous line of embankment, 60 miles 4,110 feet, more or less, in length. It commences at a masonry pillar built in the ground on the left bank of the Kánsái river in the village of Báigoda, pargana Tamluk, and running along the left bank of the Kánsái and Haldí rivers to the confluence of the latter with the river Hoogly, and thence along the right bank of the Hoogly and Rupnarain rivers, terminates at a masonry-pillar in the village of Bánká, about one fourth of a mile north of a Hindu temple on the left bank of the Bánká Khal.

## No 54

This is a circuit embankment, 12 miles 2,550 feet, more or less, in length, situated between the Kálághái and Kánsái rivers. It commences at a masonry-pillar built in the ground at the junction of the said rivers, and running along the left bank of the Kálághái river and the right bank of the Kánsái river, terminates at the aforesaid pillar. It passes through the villages of Parashu, Nonákhadí, Lakshmanpur, Nárikeldihí, Shunábhay, Áshnan, Chanddabediya, Machodal, Kholakhal, Kalkádadi, Páñchpukuriyá, Krishna-chak and Sálgediyá, all in the pargana Tamluk

## No 55.

*Rampur Boalia old Embankment*

[Excluded by Notification dated the 23rd February, 1885, published in Calcutta Gazette, 1885, Part I, page 139.]

## No 55.

*Talaimari Embankment.*

This is a continuous line of embankment on the left bank of the river



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Ganges, 8,224 feet in length, more or less. It commences at a brick pillar at the village of Sahibganj, pargana Gururhat, passes through villages Ghoiamari and Ramchandrapur, and terminates at a brick pillar fixed at the village of Talaimari, pargana Lashkaipuri, where it joins with the Rajshahi and Pabna road.

[This No 55 was included in this Schedule by Notification dated the 23rd February, 1885 (published in Calcutta Gazette, 1885, Part I, page 139), as amended by Notification No 797, dated the 12th February, 1895 (published in Calcutta Gazette, 1895, Part I, page 127) ]

No 56

*Rampur Boalia Embankment*

[Excluded by Notification dated the 23rd February, 1885, published in Calcutta Gazette, 1885, Part I, page 139 ]

No 56

*Boalia Embankment*

This is a continuous line of embankment on the left bank of the river Ganges, 14,180 feet in length, more or less. It commences by its junction with the pucca road at a brick pillar in the ground at the village of Kassaipara, 1,170 feet west of Bara Kuti, pargana Gururhat. It passes through villages Kassaipara, Khasmahal, Surampur, Nababganj, Nabinagar, and Bulanpur, and terminates at a point where it joins with the Godagari road embankment in the village of Bulanpur, pargana Gururhat, its termination being marked by a brick pillar in the ground at this point north west of the Judge's Court-house.

[This No 56 was included in this Schedule by Notification dated the 23rd February, 1885 (published in Calcutta Gazette, 1885, Part I, page 139), as amended by Notification No. 797, dated the 12th February, 1895 (published in Calcutta Gazette, 1895, Part I, page 127) ]

No. 56 A.

*Outchery Embankment.*

This is a continuous line of embankment on the left bank of the river Ganges, 1,729 feet in length, more or less. It commences at a brick pillar

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fixed in the ground on the south side of the Nator road at the village of Bulanpur, pargana Gururhat, and terminates at a point where it meets the Rampur Boalia embankment in the village of Bulanpur, pargana Gururhat

[No 56A was included in this Schedule by Notification dated the 23rd February, 1885 (published in Calcutta Gazette, 1885, Part I, page 139), as amended by Notification No 797, dated the 12th February, 1895 (published in Calcutta Gazette, 1895, Part I, page 127)]

## No 56 B

*Godagari Road Embankment*

This is a continuous line of embankment (which is also a distinct road) on the left bank of the river Ganges, 12,250 feet in length, more or less. It commences at a brick pillar fixed in the ground at the termination of Rampur Boalia embankment, Schedule D, No 56, north west of Judge's Court-house in the village of Bulanpur, pargana Gururhat, passes through villages Khasmahal, Chalna, Haropur, Gobindapur, and Nabaganga, and terminates at a brick pillar fixed in the ground in the village of Sonaikandi, pargana Gururhat

[No 56 B was included in this Schedule by Notification dated the 23rd February, 1885 (published in Calcutta Gazette, 1885, Part I, page 139), as amended by Notification No. 797, dated the 12th February, 1895 (published in Calcutta Gazette 1895, Part I, page 127)]

## No 57.

*Malda Embankment.*

This is a continuous line of embankment on the right bank of the Mahanadi river, 11,519 feet, more or less, in length. It commences at a masonry-pillar to be fixed in the ground at the village of Kutabpur, pargana Amir-ábád, and terminates at a masonry-pillar in the village of Maheshpur, pargana Bhátiyá

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## No 58

*Left Embankment on the river Hooghly.*

This is a continuous embankment on the left bank of the river Hooghly, 5 miles 4,500 feet, more or less, in length. It commences at Manikáli Khal

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at a masonry-pillar fixed in the ground in the village of Jagannátnagar, and terminates at a masonry-pillar in the village of Mijghai, on the north side of Chadial Khal, near the junction of the Hooghly river and Chadial Khal

No 59

*Right Bank of Chadial Khal*

This is a continuous embankment on the right bank of the Chadial Khal, 2,780 feet, more or less, in length. It commences at a masonry-pillar in the village of Mijghai, on the north side of Chadial Khal, near the junction of Hooghly river and Chadial Khal, and terminates at a masonry-pillar in the village of Gharbanmoniá, on the north bank of Chadial Khal, near the junction of Chadial Khal and the Calcutta and Achipore road

[A portion of this embankment, measuring 1,150 feet, commencing from village Banjhanpara and terminating in village Chadial at the masonry-pillar on the side of the Calcutta and Achipore Road, was relinquished under order by the Government of Bengal, Revenue Department, No 2014, dated the 23rd May, 1892]

No 59 A

*Right Bank of Chadial Khal*

This is a line of embankment 1,290 feet, more or less, in length, constructed in 1891 on the right bank of the Chadial drainage outfall channel. It commences from the end of the old Chadial Khal right embankment, abandoned in 1892, in the village of Banjhanpara, pargana Ballea, district 24-Parganas, and, running along the right bank of the new Chadial drainage outfall channel, it terminates at its junction with the embankment on the left bank of the river Hooghly at its sixth mile in the village of Joychandipore, pargana Ballea, district 24-Parganas.

[No 59A was included in this Schedule by Notification No. 177, dated the 20th May, 1895 (published in Calcutta Gazette, 1895, Pt. I, p 503). The Notification declared that this embankment should remain in the Schedule only so long as the Chadial Khal drainage works are maintained. Those works are still maintained.]

No. 60.

*Left Bank of Chadial Khal.*

[A portion of this embankment, measuring 1,290 feet, commencing from the masonry-pillar on the side of the Calcutta and Achipore Road, in village

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*Joychandipur, and terminating on the side of Chadral Khal in the same village, was relinquished under order by the Government of Bengal, Revenue Department, No 2014, dated the 23rd May, 1892. The rest of the embankment, measuring 1990 feet, was excluded from this Schedule by Notification No 176, dated the 20th May, 1895, published in Calcutta Gazette, 1895, Pt I, p 503]*

## No 60

*Left Bank of Chadral Khal*

This is a line of embankment 1,100 feet, more or less, in length, constructed in 1891 on the left bank of the Chadral drainage outfall channel. It commences from the end of the old Chadral Khal left embankment, abandoned in 1892, in the village of Joychandipur, pargana Ballea, district 24-Parganas, and running along the left bank of the new Chadral drainage outfall channel it terminates at its junction with the embankment on the left bank of the Hooghly river at its seventh mile and the above mentioned village of Joychandipur.

*[This No 60 was included in this Schedule by Notification No 177, dated the 20th May, 1895 (published in Calcutta Gazette, 1895, Pt I, p 503). The Notification declared that this embankment should remain in the Schedule only so long as the Chadral Khal drainage works are maintained. Those works are still maintained.]*

## No 61

*Left Bank of Hooghly River*

This is a continuous embankment on the left bank of Hooghly river, 19 miles 1,320 feet, more or less, in length. It commences at a masonry-pillar in the village of Joychandipur, near the junction of river Hooghly and Chadral Khal, and continues along the left bank of Hooghly river to Pújál Khal, on both sides of Pújál Khal, between the river Hooghly and the road leading from Calcutta to Achipur, and again down the left bank of the river Hooghly to the right bank of Faltá Khal, and terminates at a masonry-pillar in the village of Faltá, near the junction of river Hooghly and Faltá Khal.

## No. 62.

*Right Bank of Faltá Khal.*

This is a continuous embankment on the right bank of Faltá Khal, 2 miles

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1,320 feet, more or less, in length It commences at a masonry-pillar in the village of Faltá, on the north side of the khal, near the junction of river Hooghly and Faltá Khal, and terminates at a masonry-pillar on the right bank of Faltá Khal in the village of Soháia

No 63

*Left Bank of Faltá Khal*

This is a continuous embankment on the left bank of Faltá Khal, 2 miles 1,360 feet, more or less, in length It commences at a masonry pillar on the left bank of Faltá Khal, in the village of Basudiyápur, and terminates at a masonry-pillar on the left bank of the Khal in the village of Táráganj, near the junction of river Hooghly and Faltá Khal

No. 64

*Left Bank of Hooghly River*

This is a continuous embankment on the left bank of river Hooghly, 11 miles 2,780 feet, more or less, in length It commences at a masonry-pillar in the village of Táráganj, near the junction of river Hooghly and Faltá Khal, and terminates at a masonry-pillar in the village of Shimulganja, on the right bank of Khólákhali Khal, near its junction with Hooghly river

No 65

*Right Bank of Khólákhali Khal.*

This is a continuous embankment on the right bank of Khólákhali Khal, 3,500 feet, more or less, in length It commences at a masonry-pillar in the village of Shimulganja on the right bank of Khólákhali Khal, near its junction with Hooghly river, and terminates at a masonry-pillar on the right bank of the khal in the village of Darigovindapur

No 66

*Left Bank of Khólákhali Khal.*

This is a continuous embankment on the left bank of Khólákhali Khal, 4,800 feet, more or less, in length It commences at a masonry-pillar on the left bank of Khólákhali Khal in the village of Jangalpada, and terminates

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at a masonry-pillar on the left bank of the Khal in the village of Ramchandianagai, near the junction of Hooghly river and Khólakhálí Khal

## No 67

*Left Bank of Hooghly River*

This is a continuous embankment on the left bank of river Hooghly, 3 miles 2,260 feet, more or less, in length. It commences at a masonry-pillar in the village of Ramchandianagai, near the junction of Hooghly river and Khólakhálí Khal, and terminates at a masonry pillar on the right bank of Diamond Harbour Creek in the village of Hajipur, near the junction of Hooghly river and Diamond Harbour Creek.

## No 68

This is a continuous embankment on the right bank of the Diamond Harbour Creek, 7 miles 3,190 feet, more or less, in length. It commences at a masonry-pillar on the right bank of Diamond Harbour Creek in the village of Hajipur, near the junction of Hooghly river and Diamond Harbour Creek, and terminates at a masonry-pillar on the right bank of Diamond Harbour Creek in the village of Diyáiná.

## No. 69

*Left Bank of Diamond Harbour Creek*

This is a continuous embankment on the left bank of Diamond Harbour Creek, 6 miles 680 feet, more or less, in length. It commences at a masonry-pillar on the left bank of Diamond Harbour Creek in the village of Diyáiná and terminates at a masonry-pillar on the left bank of the Diamond Harbour Creek in the village of Madhavpur, near the junction of Hooghly river and Diamond Harbour Creek.

## No. 70.

*Left Bank of the Hooghly River*

This is a continuous embankment on the left bank of the river Hooghly, 8 miles, more or less, in length. It commences at a masonry pillar on the left bank of Diamond Harbour Creek, in the village of Mádhavpur, near the junction of Hooghly river and Diamond Harbour Creek, and terminates at a masonry-pillar on the right bank of Kalpi Nadi in the village of Mashámání, near the junction of Hooghly river and Kulpi Nadi.

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No 71

*Right Bank of Kulpi Nadi.*

This is a continuous embankment on the right bank of Kulpi Nadi, 1 mile, more or less, in length. It commences at a masonry-pillar on the right bank of Kulpi Nadi in the village of Mashaman, and terminates at a masonry pillar on the right bank of Kulpi Nadi in the village of Jánakimári.

No 72

*Left Bank of Kulpi Nadi*

This is a continuous embankment on the left bank of Kulpi Nadi, 1 mile, more or less, in length. It commences at a masonry-pillar on the left bank of Kulpi Nadi in the village of Gauripur, and terminates at a masonry pillar on the left bank of Kulpi Nadi in the village of Durganagar, near the junction of Hooghly river and Kulpi Nadi.

No. 73

*Left Bank of River Hooghly.*

This is a continuous embankment on the left bank of Hooghly river, 6 miles 2,640 feet, more or less, in length. It commences at a masonry-pillar on the left bank of Kulpi Nadi, in the village of Durgánagar, near the junction of Hooghly river and Kulpi Nadi, and terminates at a masonry-pillar in the village of Chalámuri, near Chalámuri semaphore.

No. 74.

*Sundarban Embankment*

This is a continuous embankment in the Sundarbans, 8 miles 2,640 feet more or less, in length. It commences at a masonry-pillar in the village of Chalámuri, near Chalámuri semaphore, and terminates at a masonry-pillar near the right bank of the Shrirámpur Khal in the village of Vaidyanáthpur.

No 75.

*Right Bank of Shrirámpur Khal.*

This is a continuous embankment on the right bank of the Shrirámpur Khal, 6 miles 2,640 feet, more or less, in length. It commences at a masonry

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pillar on the right bank of Shrirampur Khal in the village of Vaidyanathpur, and terminates at a masonry-pillar in the village of Kontáheniyá

## No 76

*Left Bank of Shrirampur Khal*

THIS is a continuous embankment on the left bank of Shrirampur Khal, 9 miles 2,640 feet, more or less, in length. It commences at a masonry-pillar in the village of Kontáheniyá, and terminates at a masonry-pillar on the left bank of the Shrirampur Khal in the village of Tákítpur Dighi.

## No 77

*Sundarban Embankment*

THIS is a continuous embankment in the Sunderbans, 26 miles, more or less, in length. It commences at a masonry-pillar on the left bank of Shrirampur Khal in the village of Tákítpur Dighi, and terminates at a masonry-pillar on the right bank of Khadí Khal in the village of Gulárchánt.

## No 78

*Right Bank of Khadí Khal.*

THIS is a continuous embankment on the right bank of Khadí khal, 3 miles 602 feet, more or less, in length. It commences at a masonry-pillar on the right bank of Khadí Khal in the village of Gulárchánt, and terminates at a masonry pillar in the village of Meghibed, near a drainage sluice.

## No. 79

*Left Bank of Khadí Khal.*

THIS is a continuous embankment on the left bank of Khadí Khal, 3 miles 2,010 feet, more or less, in length. It commences at a masonry-pillar in the village of Meghibed, and terminates at a masonry-pillar on the left bank of the khal in the village of Kámárhátá.



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No 80

*Sundarban Embankment*

This is a continuous embankment in the Sundarbans, 19 miles, more or less, in length. It commences from a masonry-pillar on the left bank of the Khádi Khal in the village of Kámarhatá, and terminates at a masonry-pillar on the right bank of Piyáli river in the village of Talpi

No 81

*Right Bank of Piyáli River*

This is a continuous embankment on the right bank of Piyáli river, 3 miles, more or less, in length. It commences at a masonry-pillar on the right bank of Piyáli river in the village of Talpi, and terminates at a masonry-pillar on the right bank of the Piyáli river in the village of Chordákáti

No 82

*Right Bank of Súrjyapur Khal.*

This is a continuous embankment on the right bank of Súrjyapur, of Pashchanbáhan Khal, 8 miles, more or less, in length. It commences at a masonry pillar on the right bank of Piyáli river in the village of Chordákáti, and terminates at Pashchanbahan sluice in the village of Bulbuliyá.

No. 83.

*Left Bank of the Súrjyapur Khal*

This is a continuous embankment on the left bank of Súrjyapur or Pashchanbáhan Khal, 4 miles 2,640 feet, more or less, in length. It commences at a Pashchanbáhan sluice in the village of Bulbuliyá and terminates at a masonry pillar on the left bank of Súrjyapur Khal in the village of Rámnagar.

No. 84.

*Right Bank of the Piyáli River.*

This is a continuous embankment on the left side of Piyáli river, 9 miles 2,100 feet, more or less. It commences at a masonry-pillar on the left

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bank of Súrijapur Khal in the village of Rámanagar, and terminates at a masonry-pillar on the right bank of Vidyádhan river, in the village of Sangai, near the junction of Vidyádhan and Piyáli rivers

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No 85

*Left Bank of Piyáli River*

This is a continuous embankment on the left bank of Piyáli river, 3 miles 3,960 feet, more or less, in length. It commences from a masonry-pillar on the left bank of Piyáli river in Sundaibau Lot No 4b, and terminates in a masonry-pillar on the right bank of the Baghmari Khal in the village of Jalyerat, near the junction of Piyáli river with Bághmari Khal

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No 86

*Left Bank of Bághmari Khal*

This is a continuous embankment on the left bank of the Bághmari Khal, 2 miles 2,640 feet, more or less, in length. It commences from a masonry-pillar in the village of Jalyerat, near the junction of Piyáli river and Bághmari Khal, and terminates at a masonry-pillar at the side of Matla road in the village of Át Rámdhan

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No 87

*Right Bank of Bághmari Khal*

This is a continuous embankment on the right side of Bághmari Khal, 1 mile 1,320 feet, more or less, in length. It commences at a masonry-pillar at the side of Matla road in the village of Kulai, and terminates at a masonry pillar on the left bank of Piyáli river in the village of Kist Kálábaruyi

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No 88.

*Left Bank of Piyáli River*

This is a continuous embankment on the left bank of the Piyáli river, 4 miles 2,460 feet, more or less, in length. It commences at a masonry-pillar on the left bank of Piyáli river in the village of Kist Kálábaruyi, and terminates at a masonry-pillar in the village of Pavan, about a quarter of a mile north of the Calcutta and South-Eastern Railway.

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No 89

*Left Bank of Piyáhi River*

This is a continuous embankment on the left bank of Piyáhi river, 2 miles 2,640 feet, more or less, in length. It commences at a masonry pillar in the village of Shukrishnapur, and terminates at a masonry-pillar on the right bank of Vidyádhari river, near the junction of Vidyádhari and Piyáhi rivers.

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No 90

*Right bank of Vidyádhari River*

This is a continuous embankment on the right bank of Vidyádhari river, 8 miles, more or less, in length. It commences at a masonry-pillar on the right bank of Vidyádhari river in the village of Bahyapur, and terminates in a masonry pillar on the right bank of the same river, near the junction of Vidyádhari and Piyáhi rivers.

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No 91

*Right Bank of Vidyádhari*

This is a continuous embankment on the right bank of Vidyádhari river, 2 miles 3,120 feet, more or less, in length. It commences at a masonry-pillar near the junction of the Vidyádhari and Piyáhi rivers in the village of SÁNGAI, and terminates at a masonry pillar on the right bank of Vidyádhari river near its junction with Tolly's Canal in the village of Pratápuagai.

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No 92

*South side of Tolly's Canal*

This is a continuous embankment on south side of Tolly's Canal, 10 miles, more or less, in length. It commences at a masonry-pillar on the right bank of Vidyádhari river, near the junction of Vidyádhari river and Tolly's Canal in the village of Pratápuagai, and terminates at a masonry-pillar on the south side of Tolly's Canal in the village of Karmábad.

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No. 93

*North side of Tolly's Canal.*

This is a continuous line of embankment on the north side of Tolly's Canal,

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2 miles 4,020 feet, more or less, in length It commences at a masonry-pillar on the north side of Tolly's Canal in the village of Naoyábád, and terminates at a masonry-pillar in the jungle in the village of Tehuráhá

## No 94

*Bhagirathi Embankments.*

This is a line of disconnected embankment on the left bank of the Bhagirathi river, extending from Paláshi bazár, pargana Palashí, district Nadia, to Dádmati, pargana Rokanpur, district Muishidabad, a distance of about 93 miles

[The following portion of this embankment was excluded from this Schedule by Notification No 149, dated the 20th May, 1901 (published in Calcutta Gazette, 1901, Part I, page 655), namely —

the portion that lies between the new Bhagwangola retired embankment and the north-west corner of the said embankment near the 69th milestone.]

## No. 95.

*Káncshakátá Embankment.*

This is a continuous line of embankment about 1,000 feet in length on the right bank of the Mathabhanga river It commences in the village of Lakshmipur or Ramnagar, pargana Shahauiyal, district Nadia, and terminates at Parkishnapur at the bottom of the new cut opposite the village of Munshigunge in the same pargana and district

[This No 95 was substituted for the original No 95 by Notification No 353, dated the 8th November, 1887, published in Calcutta Gazette, 1887, Part I, page 909]

## No. 96.

*Panchanogram Embankment.*

This is a continuous embankment, 3 miles and 1,400 feet, more or less, in length, in the Government estate, Panchanogram. It commences in village Kalikopore, and terminates in villages Shaumbadut and Chowbhauga of pargana Calcutta, Dehi Panchanogram.

[This embankment was included in this Schedule by Notification No. 160, dated the 8th April, 1884, published in Calcutta Gazette, 1884, Part I, page 516. That Notification declared that the embankment should remain in

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*the Schedule as long as the Government is the proprietor of the Panchanogiam estate The number "96" was given by Notification No 275, dated the 20th July, 1886, published in Calcutta Gazette, 1886, Part I, page 865 ]*

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No 97

*Connecting Embankment*

This is a continuous line of embankment on the right bank of the Cossye river, 3 miles 986 feet, more or less, in length It commences at the Mohanpore Lock of the Midnapore Canal in the village of Sopeabad of pargana Khairuckpore, and terminates at a masonry pillar in the village of Inda in the said pargana

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No 98

*Khairuckpore Embankment*

This is a continuous line of embankment on the right bank of the Cossye river, 3 miles, more or less, in length It commences at a masonry-pillar fixed in the ground in the village of Choiapal of pargana Khairuckpore, and terminates at a masonry-pillar in the village of Inda in the said pargana

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No 99

*Nank Embankment*

This is a continuous line of embankment on the left bank of the Cossye river, 4,000 feet, more or less, in length It commences at a masonry-pillar fixed in the ground near the Midnapore Workshops in the village of Nankar Bulubpore of pargana Midnapore, and terminates at the north abutment of the Midnapore weir in the village of Surampore in the said pargana.

*[Nos 97, 98 and 99 were included in this Schedule by Notification No 276, dated the 20th July, 1886, published in Calcutta Gazette, 1886, Part I, page 865 ]*

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No 100

*Chowmuk Embankment.*

*[This embankment was included in this Schedule by Notification No. 29, dated the 24th January, 1888, published in Calcutta Gazette, 1888, Part I, page 63, and excluded again by Notification No. 219, dated the 25th June, 1894, published in Calcutta Gazette, 1894, Part I, page 717.]*

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No 100A

*Chowmuk Embankment*

This is a continuous line of flood embankment, six miles, more or less, in length, and forms the right bank of the Balliaghye Drain, and takes the place of the left embankment, Chowmuk No 100, to be now abandoned as superfluous. It commences from the Surpai Drainage sluice in the village of Surpai, pargana Narooamootta, and runs up to village of Chowmuk, pargana Paharpur.

[No 100A was included in this Schedule by Notification No 220, dated the 25th June, 1894, published in Calcutta Gazette, 1894, Part I, page 718. The Notification declared that this embankment should remain in the Schedule only so long as the Government is the proprietor of the estates to which it affords protection.]

*Boycaree Boar Water-course*

[This water-course was included in this Schedule by Notification No 178, dated the 20th May, 1895, published in Calcutta Gazette, 1895, Part I, page 504, which runs as follows:—

Whereas it appears to His Honour the Lieutenant-Governor of Bengal that the water-course, known as Boycaree Boar, from the Koyjoori Regulator, in the village of Koyjoori, in the district of 24-Parganas, passing through the villages of Kalinee and Boycaree, in the district of Khulna, joins Darbhanga Bheel channel at about 3,500 feet below Bagdipara, in the district of Khulna, and drains Bullee bheel and the adjacent country, it is proclaimed for general information that this water-course, 2 miles and 940 feet in length, is declared a public water course, and will be included in Schedule D under the provisions of sections 7 and 43 of Act II (B. C.) of 1882.

## SCHEDULE E (referred to in sections 36 and 44) [1]

Pargana	District	Amount of contribution
		Rs A. P
Fatehsintha .	Murshidabad .	1,706 10 8
Bukanpur . . .	Ditto .	1,466 2 0

[1] Sections 36 and 44 of this Act have been repealed by the Bengal Embankment Act, 1982 (Ben. Act 2 of 1982), s 2, printed post, p. 455. But sections 44 and 54 of the latter Act contain provisions as to this Schedule.

[Ben. Act 2 of 1882] THE BENGAL EMBANKMENT ACT, 1882

THE BENGAL EMBANKMENT ACT, 1882

(BENGAL ACT 2 OF 1882).

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of 1882 ]

THE BENGAL EMBANKMENT ACT, 1882

# THE BENGAL EMBANKMENT ACT, 1882

(BENGAL ACT 2 of 1882) [1]

[21st June, 1882]

## An Act to amend the law relating to Embankments and Water-courses

WHEREAS it is expedient to make better provision for the construction, Preamble maintenance and management of embankments and water-courses in the territories subject to the Lieutenant-Governor of Bengal, It is enacted as follows —

### PART I

#### PRELIMINARY

1. This Act may be called the Bengal Embankment Act, 1882

Short title.

It extends to the whole of the territories subject to the Lieutenant-Governor of Bengal, except the Sundarbans, as defined under the provisions of clause 2, section 13, Regulation 3 of 1828,[2] and the province of Orissa, save as otherwise expressly provided in Part IX

Local extent

[Commencement] Rep by the Repealing and Amending Act, 1903 (1 of 1903.)

2

\*

\*

[3] Bengal Act 6 of 1873[4] (to amend the

Repeal of former Acts

[1] LEGISLATIVE PAPERS —For Statement of Objects and Reasons, see Calcutta Gazette, 1882, Pt IV, page 12, and for Proceedings in Council see *ibid*, Supplement, 1882, pages, 46, 91, 303 and 329

LOCAL EXTENT —This Act extends to the whole of Bengal except the Sundarbans and Orissa, but sections 4 to 6, 25, 26, 34 and 76 extend to the latter province,—see ss 92 to 94, *post*, pp 483 and 484

The application of the Act is, however, barred in the de regulationised tracts in Bengal as follows, namely —

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s 3 (2),

*ante*, p 257,

in the Chittagong Hill-tracts, by the Chittagong Hill tracts Regulation, 1900 (1 of 1900),

s 4 (2), *ante*, p 282, and

in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation,

1899 (3 of 1899), s. 3, *ante*, p. 294

REPRINTS —This Act is reprinted in the Irrigation Manual, 1897, Vol. II, p 9, and parts of it are reprinted in the Orissa Canals Manual, 1896, p 142

NOTIFICATIONS, ETC.—As to notifications, rules, etc, issued under this Act, see footnote [1] on p 402, *ante*

For orders as to the preparation, by Commissioners of Divisions, of annual reports on the working of this Act, see the Register and Return Manual, 1902, page 44

[2] The Bengal Land revenue Assessment (Resumed Lands) Regulation, 1828. It is printed in Vol II of this Code.

[3] The words "From such day," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted

[4] The Bengal Embankment Act, 1873. It is printed *ante*, p. 418.

*law relating to embankments and water-courses*), with the exception of the sections set out and schedules specified in Schedule I to this Act annexed, shall be repealed.

The references in the said sections, which are mentioned in Schedule II to this Act annexed, shall be read as if the references were made to the portions of this Act mentioned against such references respectively in the third column of such schedule

Sections 80 and 81 of this Act shall be applicable respectively to the proclamation and notice mentioned in sections 26 and 28, Bengal Act 6 of 1873 [1]

Interpreta-  
tion

3. The following words shall, for the purposes of this Act, have the meanings hereby declared, save where, from the context, a contrary intention appears —

“Collector”

“Collector” means any Revenue officer in independent charge of a district or portion of a district, or specially appointed by the Lieutenant-Governor of Bengal to perform the functions of a Collector under this Act

“District”

“district” means the local area throughout which a Collector is authorized to exercise his ordinary functions

“Embank-  
ment”

“embankment” includes—

every bank, dam, wall and dyke made or used for excluding water from, or for retaining water upon, any land,

every sluice, spur, groyne, training wall or other work annexed to, or portion of, any such embankment,

every bank, dam, dyke, wall, groyne or spur made or erected for the protection of any such embankment or of any land from erosion or overflow by or of rivers, tides, waves or waters,

and also all buildings intended for purposes of inspection and supervision

“Estate”

“estate” means any land or share in land included under one entry on the general register of revenue-paying lands and of revenue-free land prepared and maintained by the Collector of a district under the Land Registration Act, 1876, [2] or any similar law for the time being in force

“Land”

“land” includes interests in land and benefits arising out of land, and things attached to the earth, or permanently fastened to anything attached to the earth :

Ben Act 7 of  
1876.

[1] The Bengal Embankment Act, 1873. It is printed *ante*, p. 418.

[2] Printed in Vol. IV of this Code.

of 1882.] THE BENGAL EMBANKMENT ACT, 1882  
(Part I — Preliminary — Sec 4)

- “public embankment” means an embankment maintained by the officers of Government “Public embankment”
- “public water-course” means a water-course under the charge of the officers of Government “Public water-course”
- “section” means a section of this Act “Section”
- “tenure” includes all interests in land which are held permanently at a fixed rental, or which are held rent-free, other than estates as above defined “Tenure”
- “the Engineer” means the Engineer in charge of the public embankments of the district, or any part thereof, or an Engineer specially appointed by the Lieutenant-Governor of Bengal to perform the functions of an Engineer under this Act in respect of any tract of country or of any works “The Engineer”
- “water-course” includes a line of drainage, weir, culvert, pipe or other channel, whether natural or artificial, for the passage of water “Water-course”
- “zamindar” means all or any of the holders of an estate, and, where two or more zamindars are joint holders thereof, they shall be jointly and severally liable under this Act “Zamindar”
- Explanation*—For the purposes of Part VI the Government shall be deemed to be the zamindar—
- (a) of every estate of which the zamindari title is not vested elsewhere than in the Government,
  - (b) of every estate which is let in farm or held khas under the provisions of section 43 of Regulation 8 of 1793 [1] in consequence of the proprietor refusing or omitting to engage for the settlement thereof
- [2] 4 Every public embankment and every public water-course, and all land, earth, pathways, gates, bermes and hedges belonging to, or forming part of, or standing on, any such embankment or water-course, and every embanked tow-path maintained by Government, shall vest in the Government Public embankments, &c., to vest in Government
- The embankments mentioned in Schedule D [3] annexed to Bengal Act 6 of 1873, and every embankment and water-course which may be included in such Schedule under section 43 of this Act, and every embanked tow-path as aforesaid, shall be held on behalf of the Government, and all other public embankments and water courses shall be held by Government on behalf of the persons interested in the lands to be protected or benefited by such

[1] The Bengal Decennial Settlement Regulation, 1793 It is printed in Vol II of this Code

[2] S 4 extends to the Province of Orissa—see s 94, post, p 484.

[3] Printed ante, p. 421

(Part I—Preliminary—Part II—Powers of Collector and Procedure thereon, Embankment Committees—Secs 5-7)

embankments or water-courses, subject to the provisions of section 87, and all moneys received on account of such lands shall be credited to the cost of the construction and maintenance of such embankments and water-courses respectively

Survey of  
lands hitherto  
used for  
obtaining  
earth for  
repairs

[1] 5 All plots or parcels of land which, before the commencement of this Act, have been used for the purpose of obtaining earth or other materials for the repair of any public embankment, water course or embanked tow path as aforesaid, or which by agreement have been substituted for such lands, shall be deemed to be at the disposal of the Government for such purpose, without payment of compensation for the use or removal of such earth or other materials

The Collector may cause all such plots or parcels to be ascertained, surveyed and demarcated

Notification.

[1] 6. The Lieutenant-Governor may, from time to time, by a notification in the Calcutta Gazette, declare the limits of any tract within which the provisions of clause (b), section 76, shall take effect,

and the said provisions shall take effect one month after the publication of such notification

As soon as possible after the said publication, the Collector shall cause a translation of the notification in the vernacular to be published in the manner prescribed in section 80

## PART II

### POWERS OF COLLECTOR AND PROCEDURE THEREON, EMBANKMENT COMMITTEES

Powers of  
Collector

7. Subject to the provisions of Part III, whenever it shall appear to the Collector that any of the following acts should be done, or works executed, that is to say.

Taking charge  
of embankment  
by  
Government

(1) that any embankment which connects public embankments, or forms by junction with them part of a line of embankments, or that any embankment or water-course which is necessary for the protection or drainage of the neighbouring country, should be taken charge of and maintained by the officers of Government,

Removal of  
embankment  
or obstruction

(2) that any embankment, or any obstruction of any kind, which endangers the stability of a public embankment or the safety of any town or village, or which is likely to cause loss of property by interfering with the

[1] Ss 5 and 6 extend to the Province of Orissa—see s. 94, post, p. 484

of 1882 ]

THE BENGAL EMBANKMENT ACT, 1882

(Part II—Powers of Collector and Procedure thereon, Embankment Committees—Secs 8-10 )

general drainage or the flood drainage of any tract of land, should be removed or altered,

(3) that the line of any public embankment should be changed or lengthened, or that any public embankment should be renewed, or that a new embankment should be constructed instead of any public embankment, or that any embankment should be constructed for the protection of any lands or for the improvement of any water-course, or that a sluice in any public embankment should be made,

Changing line of embankment

(4) that any sluice or water-course should be made, or that any public water-course should be altered for the improvement of the public health, or for the protection of any village or cultivable land,

Improvement of drainage

(5) that any road which interferes with the drainage of any tract of land should be altered, or that any water-course under or through such road should be constructed,

Alteration of roads and construction of water courses

he shall cause to be prepared estimates of the cost of such works, including such proportion of the establishment charges as may be chargeable to the works in accordance with the rules for the time being in force under this Act, or as may be specially ordered by the Lieutenant-Governor, together with such plans and specifications of the same as may be required. He shall also cause to be prepared from the survey map of the district a map showing the boundaries of the lands likely to be affected by the said acts and works, and he shall cause a general notice to be given of his intention to cause such works to be executed

8. Such general notice shall as far as possible be in the form, and state the particulars mentioned, in Schedule III to this Act annexed, and to it shall be annexed a list of all estates and villages, as far as is known, which are likely to be affected by the proposed work, and to be chargeable in respect of the expenses of executing the same, and a copy of the said estimates, specifications and plans, together with a copy of the map as aforesaid, shall be deposited in the office of the Collector, and shall be open to the inspection of any persons interested, who shall be allowed to take copies thereof.

Form of notice

9. Every such general notice shall be published in the manner provided by section 80 not less than thirty days before the day appointed for hearing the persons interested.

Proclamation to be published for thirty days

10. The Collector shall, on the day appointed for the hearing, or on any

Hearing of

(Part II.—Powers of Collector and Procedure thereon, Embankment  
Committees—Secs 11-15)

objections to  
works

subsequent day to which the hearing may be adjourned, hold an inquiry and hear the objections of any persons who may appear, recording such evidence as he may deem necessary

Order after  
inquiry

11. After holding such inquiry the Collector shall proceed as follows, that is to say —

(a) if he considers that the proposed act or work, or any modification of the same, should not be done or executed, he shall record his opinion to that effect,

(b) if he considers that the proposed act or work, or any modification of it, should be done or executed, he shall submit a report to the Commissioner of the Division

Order of  
Commissioner

12. On receipt of a report submitted under section 11, the Commissioner, after making any further inquiry which he may deem necessary, may record an order refusing to support the proposal made in the report of such Collector for the execution of such work,

or may forward the report submitted by such Collector, together with any remarks he may think proper, for the consideration of the Board of Revenue

Order of  
Board

13. On receipt of the report forwarded by the Commissioner, the Board of Revenue, after making any further inquiry which they may deem necessary, may record an order refusing to support the proposal made in the report of such Collector or Commissioner,

or may submit such report, together with any remarks which may be thought proper, for the consideration of the Lieutenant-Governor

Order of  
Lieutenant-  
Governor

14. On receipt of such report from the Board the Lieutenant-Governor shall proceed to consider the same, and may order that the proposed act or the proposed work, or any modification thereof, be done or executed. Every such order shall be notified in the Calcutta Gazette

Special powers  
which may be  
conferred by  
Lieutenant-  
Governor.

15. Notwithstanding anything contained in this Part, the Lieutenant-Governor may, by a special order passed in respect of any act or work specified in section 7, or by a general order in respect of any class of such acts or works, authorize the Collector, after holding such inquiry as is prescribed in section 10, without previous reference to any superior authority, to pass an order that such act or work or any modification thereof may be done or executed; or the Lieutenant-Governor may authorize the Commissioner or the Board of Revenue to pass such order without previous reference to any superior authority.



of 1882.] THE BENGAL EMBANKMENT ACT, 1882

(Part II—Powers of Collector and Procedure thereon, Embankment Committees—Secs 17, 18)

Provided that every order passed under the authorization of the Lieutenant-Governor, given under this section, shall be subject to the provisions of section 85.

16. [Alteration of railroads and construction of water-courses] Rep by the Indian Railways Act, 1890 (9 of 1890)

17. Whenever an order shall have been passed in cases falling under section 7, clause (5), [1] \* \* \*, directing that any road [2] \* \* \* which interferes with the drainage of any tract of land be altered, or that any water-course be constructed under or through such road [2] \* \* \* the Collector may require the person in charge of such road [2] \* \* \* to make such alteration or construct such water course, and in the event of such person failing to comply with such requisition in such manner and within such time as the Collector shall prescribe, the Collector may cause the road [2] \* \* \* to be altered or the water-course to be constructed by the officers of Government

Procedure of Collector

[3] \* \* \* \*

The expenses of such alteration or construction shall be borne by the person in charge of the said road [2] \* \* \*, so far as the same shall have been incurred on account of insufficient provision having been made at the time of the construction of the said road [2] \* \* \* for the natural drainage then existing, and the remainder of the expense, if any, shall be charged upon, and recovered from, the proprietors of the lands benefited in accordance with the provisions of this Act. If any dispute arises as to the apportionment of expenses under this clause between the person in charge of a road [2] \* \* \* and the proprietors of the lands benefited, the dispute shall be decided by the Lieutenant-Governor, whose decision shall be final

Expenses of alteration or construction

18. (a) If any person desires that a sluice be made in any public embankment for the purpose of drainage or irrigation,

Application for new sluices, embankments or drainage.

(b) or, if within any tract of country which has been included within a notification under section 6, any person desires that any new embankment be erected, that any existing embankment be lengthened, enlarged, repaired

[1] The words "or under the section last preceding," in s. 17, which were repealed by the Indian Railways Act, 1890 (9 of 1890), are omitted.

[2] The words "or railroad," in s. 17, which were repealed by the same Act, are omitted.

[3] The proviso to the first paragraph of s. 17, which was repealed by the same Act, is omitted. It ran as follows:—

"Provided that in the case of a railroad no such work shall be undertaken by the Officer of Government without the permission of the Lieutenant-Governor previously obtained"

(Part II—Powers of Collector and Procedure thereon; Embankment Committees—Secs 19, 20)

or removed, or that the line of any embankment be altered, or that any new water-course be made, or that any water-course be obstructed or diverted,

he may make an application in writing to the Collector

The application shall contain such particulars of the land likely to be affected by the work as may enable the Collector to judge of the advantage which may be derived from the project

If it should appear to the Collector that the work applied for is one which may probably be executed with advantage, the procedure mentioned in the 7th and following sections of this Act shall be followed in respect of the proposed work

Power to remove houses, etc

19 Whenever the Collector, after considering any report of the Engineer or otherwise, shall be of opinion that the removal of any trees, houses, huts or other buildings, situated between a public embankment and the river, is necessary

or that land is required for widening an existing embanked tow-path, or for constructing a new embanked tow-path,

he shall [1] make a report to that effect to the Commissioner, accompanied by a detailed statement of the trees, houses, huts or other buildings to be removed, or of the land required

Such report shall be submitted in the usual manner through the Board of Revenue to the Lieutenant-Governor, in order that proceedings may be taken for obtaining possession of such trees, houses, huts and buildings or land in accordance with the provisions of the Land Acquisition Act, 10 of 1870, or other law [2] for the time being in force for the acquisition of land for public purposes.

Authority to take proceedings where lands likely to be affected by the works are in different districts.

20. If any works proposed to be undertaken in accordance with this Act, or the lands which are likely to be affected by such works, are situated within the limits of different districts, the Collector of any district within which any portion of such works or lands is situated may apply to the Commissioner of the division for authority to proceed in such matter, and the Commissioner of the division, with the concurrence of any other Commissioner within whose division any such lands are situated, may give authority to such Collector,

[1] For special power to remove trees, houses, huts or buildings, in cases of grave and imminent danger to life or property, see the Bengal Embankment Act, 1873 (Ben Act 6 of 1873), s. 21, proviso, ante, p. 419.

[2] See now the Land Acquisition Act, 1894, (1 of 1894, printed in General Acts, 1891-93, Ed. 1899, p. 100), which repeals and re-enacts Act 10 of 1870

of 1882 ]

THE BENGAL EMBANKMENT ACT, 1882

(Part II —Powers of Collector and Procedure thereon, Embankment Committees—Part III—Procedure in cases of Imminent Danger to Life or Property—Secs 21-25)

or to any other Collector within whose district any portion of such lands is situated, to carry out all or any proceedings under this Act in respect of all the lands affected by such works

21 The Lieutenant-Governor may, if he think fit, appoint an Embankment Committee for any district, and may from time to time appoint and accept the resignation of the members of such Committee, and direct that any person shall cease to be a member thereof

Lieutenant Governor may appoint Embankment Committee

22 The Lieutenant-Governor may from time to time direct that any such Committee shall be consulted by the Collector in the discharge of any function or the performance of any duty imposed on him by this Act, and by a notification published in the Calcutta Gazette may from time to time direct that any such function or duty shall be performed or discharged by such Committee

Consultation of Committee by Collector

23. The business of every such Committee shall be conducted under such rules as the Lieutenant-Governor may from time to time make in that behalf

Business of Committee

24. Whenever, in any matter on which the Lieutenant Governor has directed that the Collector shall consult the Committee, the Collector may differ from the Committee, he shall, if so required by the Committee, submit the question to the Commissioner of the division for decision, with copies of any remarks which may have been recorded by the Committee or any members thereof

Reference to Commissioner.

### PART III [1]

#### PROCEDURE IN CASES OF IMMINENT DANGER TO LIFE OR PROPERTY

25. Whenever the Collector [2] shall be of opinion that the delay in the execution of any work occasioned by proceedings commenced by a general notice under the 7th and following sections of this Act [3] would be attended with grave and imminent danger to life or property, he may forthwith cause

Proceedings in emergencies

[1] As to the issue of a proclamation when land has been taken or used under Part III, see the Bengal Embankment Act, 1873 (Ben Act 6 of 1873), s 26, ante, p 419

[2] As to the exercise of the powers of the Collector under s 25 by the Superintendent of Embankments or the Engineer in the Province of Orissa, see ss. 92 and 93, post, p 483

[3] In Orissa, all references in s. 25 to other parts of this Act are to be deemed to be references to the corresponding portions of the Bengal Embankment Act, 1855 (32 of 1855)—see s 92, post, p 483. Act 32 of 1855 is printed ante, p. 402.

## THE BENGAL EMBANKMENT ACT, 1882

[Ben Act 2

(Part III — *Procedure in Cases of Imminent Danger to Life or Property* —  
Part IV — *Powers of the Engineer* — Secs 26-29)

the execution of such work to be begun in anticipation of the completion of such proceedings

Provided that he shall without delay cause to be prepared the estimates, specifications and plans of the proposed works, together with a copy of the map as provided in section 7, [1] and shall cause general notice to be given that the work mentioned therein has already been commenced, and thereupon such proceedings and inquiries shall be had as in and by Part II of this Act [1] are directed

Restoration  
of embank-  
ments etc

26 Whenever it may have been determined in the final order to be passed on any such inquiry that anything done by the Collector or by the Engineer under the last preceding section was unnecessary, any person who shall have sustained damage by the execution of such works shall receive compensation from the Government to be assessed according to the provisions contained in Part V of this Act, and, on receipt of any application to that effect by the Collector from any such person affected, the land or the embankments or drainage shall, so far as any alteration thereof shall appear to have been unnecessary, be, at the expense of the Government, restored as nearly as possible to the state in which they were when the Collector commenced to act under the provisions of this Part

Authority to  
take proceed-  
ings where  
lands in  
different dis-  
tricts

27. If any portion of the land likely to be affected by any work to be undertaken under this Part lies within another district, the Collector who causes the work to be executed shall, when commencing upon it give notice of the same to the Collector of such other district, and the provisions of section 20 shall be applicable to all proceedings connected with the work and the cost thereof

## PART IV

## POWERS OF THE ENGINEER

Engineer sub-  
ject to con-  
trol of Col-  
lector

28. The powers conferred on the Engineer under this Act shall be exercised subject to the general control and orders of the Collector.

Power to  
Engineer to  
act in urgent  
cases.

29. In cases in which the Engineer may be of opinion that delay for the purpose of obtaining the orders of the Collector would be attended with grave

[1] In Orissa, all references in s 25 to other parts of this Act are to be deemed to be references to the corresponding portions of the Bengal Embankment Act, 1855 (32 of 1855) *see* s. 32 *post*, p. 483. Act 32 of 1855 is printed *ante*, p. 402.

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(Part IV—Powers of the Engineer—Secs 30 33)

and imminent danger to life or property, the Engineer may exercise the powers conferred on the Collector by section 25

The Engineer shall forthwith report to the Collector any action taken by him under this section and shall be guided by any instructions which he may receive from the Collector in respect thereof

30 The Engineer may make any repairs in, and may do all acts necessary and proper for the maintenance of, any public embankment, public water course or any other work executed or taken charge of under the provisions of this Act or of any previous similar Act

Power to make repairs

31 Whenever any person desires that a temporary roadway should be made over, or that a temporary water course should be made through, any public embankment, or that a temporary dam should be constructed in any embanked river or public water-course, he shall apply to the Engineer, or to any person who has been appointed in that behalf by the Engineer

Power to make temporary roadway, water course or dam

Such Engineer or person shall communicate the application with his opinion to the Collector, and shall await the Collector's order in respect thereof, unless he thinks that there is special reason for the immediate execution of the work, in which case he may execute the same without waiting for the orders of the Collector

If the proposed work is to be executed by an officer of Government, the applicant, before the commencement of the work, shall deposit the amount estimated by the Engineer to be necessary to defray the expenses of, and incidental to, making and removing such roadway, or of, and incidental to, making, closing or removing such water course or dam

If the amount deposited is found afterwards to exceed the amount required, such excess shall be returned to the said applicant

32 Sluices constructed in any public embankment shall be opened or shut only by or with the general or special permission of the Engineer or of the officer in the immediate charge of the embankment, under such orders, either general or special, as he may receive from the Engineer

Sluices to be opened or shut under authority of the Engineer

33. It shall be lawful for the Engineer, or any person whom he may authorize in that behalf, in order to carry out any of the purposes of this Act,—

Power to enter and survey land, etc

to enter upon, and survey, and take levels of any land;  
to dig or bore into the sub-soil;

to do all other acts necessary to ascertain whether the land is adapted to the purpose projected by such Engineer or by the Collector,

Power to  
mark out line

to set out the boundaries of the land proposed to be taken, and the intended line of the work proposed to be made thereon,

to mark such levels, boundaries and line, by placing marks and cutting trenches,

Power to  
clear land

and, where otherwise the survey cannot be completed or the levels taken, to cut down and clear away any part of any standing crop, fence or jungle

Previous  
notice of  
entry

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

Payment for  
damage

The Engineer or other person so authorized shall at the time of such entry tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so tendered, he shall at once refer the dispute to the decision of the Collector, and such decision shall be final.

Power to  
take earth  
from lands

[1] 34. Whenever it is deemed requisite to repair any embankment or water-course, or embanked tow-path maintained by Government, it shall be lawful for the Engineer, or any person authorized in that behalf, to enter in and upon the lands mentioned in section 5, and take possession of, appropriate and remove any earth or other material therefrom, and use the same for the purposes of such repairs.

Procedure  
where crops  
on such lands

35 The Collector shall proceed in respect of any crops standing on such land as provided in section 13, [2] Bengal Act 6 of 1873, and the provisions of that section shall be applicable to claims for the payment of compensation for damage done to such crops

Acquisition of  
land made  
permanently  
unfit for  
cultivation

36 When any such land is rendered permanently unfit for cultivation by any such act as aforesaid, the Local Government shall, upon application for that purpose made by the owner thereof, acquire such lands under the provisions of the Land Acquisition Act, 1870, or other law [3] for the time being in force for the acquisition of land for public purposes.

[1] S 34 extends to the Province of Orissa—see s 94, *post*, p 484

[2] Printed *ante*, p. 419

[3] See now the Land Acquisition Act, 1894 (1 of 1894, printed in General Acts, 1891-96, Ed. 1896, p. 100), which repeals and re-enacts Act 10 of 1870

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THE BENGAL EMBANKMENT ACT, 1882

(Part V—Acquisition of Lands and Compensation—Secs 37-41)

PART V [1]

ACQUISITION OF LANDS AND COMPENSATION

37 Whenever, in the course of proceedings under this Act, save in those cases in which the Collector has proceeded under the provisions of sections 12 and 13,[2] Bengal Act 6 of 1873, it appears that land is required for any of the purposes thereof, proceedings shall be forthwith taken for the acquisition of such land in accordance with the provisions of the Land Acquisition Act, 10 of 1870, or other law[3] for the time being in force for the acquisition of lands for public purposes

Acquisition of land

38 Subject to the provisions of section 5, whenever any land other than land required or taken by the Engineer, or any right of fishery, right of drainage, right of the use of water, or other right or property, shall have been injuriously affected by any act done or any work executed under the due exercise of the powers or provisions of this Act, the person in whom such property or right is vested may prefer a claim by petition to the Collector for compensation

Compensation for consequential damage

Provided that the refusal to execute any work for which application is made, and the refusal of permission to execute any work for the execution of which the permission of the Collector or any other authority is required under this Act, shall not be deemed acts on account of which a claim for compensation can be preferred under this section.

39 No claim under the last preceding section shall be entertained which shall be made later than two years next after the completion of the work by which such right is injuriously affected

Limitation to claim for compensation.

40 When any such claim is made, proceedings shall be taken in view to determine the amount of compensation, if any, which should be made and the person to whom the same should be payable, as far as possible, in accordance with the provisions of the Land Acquisition Act, 10 of 1870, or other law[3] for the time being in force for the acquisition of land for public purposes.

Procedure for determining compensation.

41 In any such case which is referred to the Judge and assessors for the purpose of determining whether any, and, if so, what amount of compensation should be awarded, the Judge and assessors shall take into consideration—

Matters to be considered in determining compensation.

*First*, the market value of the property or right injuriously affected at the time when the act was done or the work executed,

[1] As to the application of Part V when a proclamation has been issued under Part III, see the Bengal Embankment Act, 1873 (Ben. Act 6 of 1873), s 26, *ante* p 419

[2] Printed *ante*, pp 418 and 419

[3] See now the Land Acquisition Act, 1894 (1 of 1894, printed in General Acts, 1891 98, Ed 1899, p 100), which repeals and re-enacts Act 10 of 1870

*Secondly*, the damage sustained by the claimant by reason of such act or work injuriously affecting the property or right,

*Thirdly*, the consequent diminution of the market-value of the property or right injuriously affected when the act was done or the work executed,

*Fourthly*, whether any person has derived, or will derive, benefit from the act or work in respect of which the compensation is claimed, or from any work connected therewith, in which case they shall set off the estimated value of such benefit, if any, against the compensation which would otherwise be decreed to such person.

But the Judge or assessors shall not take into consideration—

*First*, the degree of urgency which has led to the act or work being done or executed,

*Secondly*, any damage sustained by the claimant, which, if caused by a private person, would not in any suit instituted against such person justify a decree for damages.

Matters not to be considered in determining compensation

## PART VI

### COST OF WORKS, PROCEEDINGS, ETC

#### *I—Ascertainment thereof*

Embankments in Schedule D.

42. The provisions of section 47 and the following sections in this Part contained shall not apply to any of the embankments mentioned in Schedule D[1] to Bengal Act 6 of 1873 annexed, or which may be hereafter included therein, save so far as any works or repairs are executed therein or in relation thereto under the provisions of section 13 or of section 31, or to any of such embankments as may hereafter be erected for the protection of lands which at the commencement of this Act are protected by the embankments mentioned in the aforesaid schedule, save so far as the erection of such embankments may protect lands not protected by the embankments mentioned in the aforesaid schedule.

All sums payable in respect of any works or repairs executed in or in relation to the embankments mentioned in the aforesaid schedule, except under the provisions of section 13 or of section 31, shall be paid by the Government.

Exclusion

43. If at any time after the commencement of this Act, on inquiry made



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(Part VI—Cost of Works, Proceedings, etc.—Secs 44-46)

by the Collector as far as possible in accordance with the provisions of Part II of this Act, it shall be found that it is unnecessary for the public interests to retain any embankment mentioned in the said Schedule D[1], or any embankment or water-course which may have been included in the said Schedule D[1] under the clause next following of this section, the Lieutenant-Governor may direct [2] that the same shall be no longer included in the said Schedule

from Schedule D

Provided that the Lieutenant-Governor may restore[2] the same to the said Schedule if on any subsequent inquiry similarly conducted it shall appear to the Lieutenant-Governor that it is necessary so to do

The Lieutenant-Governor may, at any time after the passing of this Act, by a notification published in the Calcutta Gazette, direct[2] that any embankment not mentioned in the said Schedule D[1], or any water-course, be included therein, and the provisions of this section shall apply to such embankment or water-course

Addition to Schedule D

44 In accordance with the custom heretofore in force in respect of the parganas entered in Schedule E [3] annexed to Bengal Act 6 of 1873, the Government shall continue to contribute annually the sum noted therein for each pargana respectively towards the maintenance of the embankments thereof

Contribution of public money to wards the maintenance of the embankments in the parganas entered in Schedule E to be continued If such embankments are declared to be public, Collector to keep a separate account

45 If the embankments maintained in either of the said parganas shall at any time be declared to be public embankments under the provisions of section 7, the Collector shall, from the date of such declaration, keep a separate account for such parganas, in which the aforesaid sum shall be credited at the commencement of each financial year

The unexpended balance at the close of each year shall be carried on to the credit of the account in the next succeeding year, and shall be available for the cost of repairing or erecting all the embankments which it may be deemed necessary to maintain in such pargana

46 If at any time \* \* [4] on an inquiry made by the Collector as far as possible in accordance with the provisions of Part II, it shall be found that it is unnecessary for the public interests to retain any embankment in

Contribution may be discontinued if it be found unnecessary

[1] Printed *ante*, p 421

[2] All extant orders issued under this section are noted in Schedule D as printed on pages 421 to 450, *ante*

[3] Printed *ante*, p 450

[4] The words "after the commencement of this Act," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

for the public  
interest to  
maintain the  
embankments

either of the said parganas the Lieutenant-Governor may direct that such contribution shall cease in respect of such pargana

Provided that such contribution shall again be made in accordance with the provisions hereinbefore contained, if it shall appear to the Lieutenant-Governor, on the report of an inquiry similarly conducted, that the maintenance of any embankment in such pargana has again become necessary for the public interest

Estimates and  
specifications  
to be prepar-  
ed

47. Subject to the provisions of Part III of this Act, before the Collector or the Engineer undertakes, under the provisions of this Act, the execution of any repairs or of any work other than any new work of which the estimates, specifications and plans have been prepared and deposited in the Collector's office for public inspection as provided in section 7, specifications and estimates of the expenses to be incurred in respect of the repairs or works, including such proportion of establishment charges as the Lieutenant-Governor shall direct, shall be prepared by the Engineer

Preparation  
of further  
estimates and  
specifications

48 Whenever it appears that the actual expenses to be incurred in respect of any work will exceed by one-tenth any estimate of such work which may have been transmitted to the office of the Collector under the next succeeding section, the Engineer shall forthwith prepare further estimates, and, if necessary, further specifications.

Estimates and  
specifications  
to be open to  
inspection

49. Copies of all specifications and estimates prepared under the two last preceding sections shall be transmitted to the office of the Collector, together with vernacular translations thereof, or such abstracts thereof as the Lieutenant Governor may from time to time direct, and may be examined by any person interested in such works and repairs

Notice of  
receipt of  
estimates and  
specifications

50 A general notice of the receipt of any such specifications and estimates shall be published in the manner prescribed in section 80, and in such general notice shall be specified all estates chargeable for, or likely to be affected by, the said works or repairs. Special notices shall also be served in respect of every estate in which the area liable to the assessment of the apportioned charge is likely to exceed one hundred acres, or, instead of causing a general notice to be published, the Collector may cause special notices to the same effect to be served in respect of every estate chargeable for, or likely to be affected by, the said works and repairs. Should any objection in regard to such specifications and estimates be preferred by any such person within a period of one month from the date of service of such notice, the Collector shall pass such orders as may appear to him reasonable and proper.

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(Part VI—*Cost of Works, Proceedings, etc*—Secs 51-53)

51 The accounts of the actual expense incurred in executing any works or repairs, or of any portion of the actual expenses with which the Collector may determine to deal separately under this and the following sections, shall be prepared as soon as possible after the completion thereof

Preparation  
of accounts  
and  
Engineer's  
certificate  
of expenses

The Engineer shall sign a certificate stating the amount of all such expenses, and specifying the boundaries of the lands which are benefited or affected by the said works or repairs, and stating generally how and to what extent the lands so specified, or any parts of them, are affected

Any such certificate may be amended at any time before the Collector has made an order charging or apportioning the amount under section 58

On receipt of such certificate or amended certificate, the Collector shall cause a statement to be prepared of the villages of which any lands are benefited or protected by such works and repairs, and of the estates to which they belong, and, except as otherwise in this Act provided, the zamindars of such estates and villages shall be liable to pay the said amount

Copies of the said accounts, certificates and statements shall be deposited in the office of the Collector, and may there be examined by any person interested

52. General notice of the receipt and deposit of such accounts, certificates and statements in the office of the Collector shall be given

Notices and  
inquiry into  
objections

Special notices thereof shall also be served in respect of every estate in which the area liable to assessment of the apportioned charges exceeds one hundred acres, or, instead of causing a general notice to be published, the Collector may cause special notices to the same effect to be served in respect of every estate and tenure on or among the zamindars or tenure-holders of which any sum is charged or apportioned, and if, within one month of such general notice being given, or of such special notice (if any) being served on him, any interested person shall object to the accounts on the ground either that the work charged for has not been performed, or that the whole sum charged has not been expended, or that the rates of charge are higher than those mentioned in the estimates, the Collector shall inquire into such objection, and pass orders thereon.

53. The Collector shall add to the amount appearing in the said certificate all sums which have been paid or have become payable in respect of the said works and repairs, whether as compensation, costs and expenses under, and incidental to, any proceedings taken or directed to be taken under Part II or

Total sum  
payable.

Part V of this Act, or under sections 26 to 29 [1] of Bengal Act 6 of 1873, as cost of making of surveys and plans, as cost of preparing the estimates, accounts, certificates and statements, as cost of the issuing and service of notices up to date, or on any other account, and shall then make an order specifying the total sum found payable, and in respect of works done under section 17 and section 31 the persons by whom, or in respect of other works, the estates in respect of which, the same is payable to him. If the order is made in respect of work done under section 17 or section 31, the same shall forthwith be served upon the party or parties liable to pay, otherwise the Collector shall proceed under the provisions in the next Chapter contained.

Interest

Interest may be charged upon any sum paid as compensation from the date of payment thereof at five *per centum*, or at such rate, not exceeding five *per centum per annum*, as the Lieutenant-Governor may from time to time determine

### 2—Liability for the Costs, and apportionment thereof

Parties liable to pay

54 The total sum aforesaid, save so far as is otherwise provided in this Act, shall be paid to the Collector by the zamindars of the estates in which are situated the lands benefited or protected by the repairs or works executed

Proviso in respect of the parganas in Schedule E

Provided that the sum standing to the credit of a pargana in Schedule E [2] to Bengal Act 6 of 1873 annexed in the account kept by the Collector, at the time when the total amount payable is fixed under the provisions of section 53, shall be deducted from the total amount payable in respect of such portion of any embankment as is situated in such pargana, and that the zamindars of the estates situated in such pargana shall be charged only with the balance of the amount (if any) which may remain payable

Recovery from under tenants

55 Every zamindar, who is liable under the last preceding section for the payment of the whole or a portion of such total sum, shall be entitled to recover from the holder of every tenure held immediately under him, and from the holder of any land which is declared under the provisions of section 60 to form part of his estate, the sum apportioned to such tenure or land by the Collector under the provisions of section 59.

And, similarly, every tenure-holder shall be entitled to recover from the holder of any tenure subordinate to his own, and from the holder of any land declared under section 60 to form part of his tenure, the sum apportioned to such subordinate tenure or land by the Collector, under the said provisions.

[1] Printed *ante*, pp 419 and 420.

[2] Printed *ante*, p 450.

of 1882 ] THE BENGAL EMBANKMENT ACT, 1882

(Part VI—Cost of Works, Proceedings, etc.—Secs 56-58)

56 So soon as the total sum payable as aforesaid has been ascertained, the Collector shall cause general notice to be given specifying the estates in respect of which any portion of such total sum will be chargeable, and special notices to be served in respect of every estate in which the area chargeable exceeds one hundred acres, or instead of causing a general notice to be published, the Collector may cause special notices to the same effect to be served in respect of every estate and tenure on or among the zamindars or tenure holders of which any sum is charged or apportioned

Notice to be given before apportionment

Such notices shall make it known that an inquiry will be held at a day and place therein named for the purpose of apportioning amongst the zamindars and tenure-holders the said total sum, with interest and the costs of apportionment

57 In any such inquiry the Collector shall take down in writing the names of all persons who may claim, or who may be alleged by any party interested, to be holders of tenures within any of the estates mentioned in such notice. In default of appearance of any such person, the Collector shall issue and serve a notice calling on him to appear at a date and place therein mentioned, and to show cause against being included in the order of apportionment to be made therein, and shall adjourn the inquiry till such date

Names of tenure holders,

58 At such or any subsequently adjourned inquiry, the Collector, if there be only one estate liable, shall charge the zamindar thereof with the total amount payable, and if there be two or more estates, he shall apportion the same amongst the zamindars thereof, either—

Apportionment amongst zamindars

- (a) rateably in proportion to the respective benefits derived by such estates from such works or repairs, or
- (b) in proportion to the areas of the lands benefited or protected thereby, and comprised within such estates respectively, or
- (c) with the sanction of the Local Government, in proportion to the amount of revenue payable for such estates respectively.

Provided that the said total amount payable in respect of the embankments on the right bank of the river Gandak shall be chargeable, in accordance with the custom in force for such estates, to the zamindars of all the estates situated in the district of Saran, in proportion to the amount of revenue respectively payable for such estates.

Provided also that the total amounts which may have been expended by the Government before the commencement of this Act, and the total amounts which may become payable in accordance with the provisions of this Act, on

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(Part VI—*Cost of Works, Proceedings, etc*—Secs 59 62)

account of any year in respect of the embankments on the left bank of the river Gandak in the district of Muzaffarpur, shall be chargeable, and shall be deemed always to have been chargeable, in accordance with the custom hitherto in force in respect of such embankments, that is to say, chargeable to the zamindars of all the estates situated in the following parganas, *viz*, Rati, Gadasand, Hajipur, Bhatsali, Gariol, Nae, Saresa and Biligach, in proportion to the amounts of land-revenue payable for such estates respectively, but so that the amount out of any total sum apportioned in respect of each estate in Rati, Gadasand and Hajipur shall bear such a proportion to the land-revenue payable for such estate as shall be twice as great as the proportion which the amount apportioned in respect of each estate in the remaining parganas shall bear to the land-revenue payable for such estate

Apportionment amongst tenure holders

59 The Collector shall, in like manner, except in respect of the said embankments on the right bank and left bank of the river Gandak, charge or apportion the amount payable in respect of each estate upon or amongst the holders of the tenures therein rateably in the proportion of benefit so received or of area so benefited or protected, first deducting therefrom such sum as, on the like principle of proportion, is payable in respect of such portion of the estate as is not included within any tenure

Pro vision as to lands held without payment of rent not being estates

60 All lands held without payment of rent not being estates may, for the purposes of this Act, be deemed to form part of any estate or of any tenure within the local boundaries of which they are included, and if they are not included within the local boundaries of any estate, then to be a part of such conterminous estate as the Collector in whose district such conterminous estate is situated shall, by an order under his seal and signature, declare

Amount apportioned payable by instalments

61 The amount charged to or apportioned on any estate or tenure shall be payable in equal instalments on such days as the Lieutenant-Governor shall direct. Provided that no instalment shall exceed four annas for every acre of land in respect of which the same is payable, and that not more than four instalments shall be payable in any one year.

Interest

Interest shall be charged on the unpaid portion of the said amount from the date of apportionment until payment thereof at five *per centum* or at such rate, not exceeding five *per centum per annum* as the Lieutenant-Governor may from time to time determine.

Apportionment of further expenses

62. If after the apportionment of the expenses of any works and repairs as above prescribed any expenses not included in such apportionment shall be found to have been paid or to have become payable on account of the said works

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(Part VI—Cost of Works, Proceedings, etc.—Secs 63 65)

or repairs, whether as compensation or otherwise, the Collector may proceed to apportion such further expenses in the manner in this Part provided

63 Instead of the procedure prescribed above for charging upon, and recovering from, zamindars, the expenses actually incurred in the repairs and maintenance of public embankments and water-courses and the works connected therewith, the Lieutenant-Governor may, by an order to be published in the Calcutta Gazette, direct that an estimate be made of the expenses to be incurred in respect of such repairs, maintenance and works during any number of years, not exceeding thirty, which he may think fit, and may by a subsequent order fix the total sum payable during such number of years by the zamindars of the estates benefited by such repairs, maintenance and works.

Alternative power of apportioning estimated expenditure for a series of years

Provided that no order fixing such total sum shall be passed by the Lieutenant-Governor until three months after the amount of such estimate shall have been published in the Calcutta Gazette, and by a general notice calling on all persons interested to prefer to the Collector any objections they may think proper against such amount being fixed as the total sum. Every such objection shall be submitted to the Lieutenant-Governor for his consideration.

64 The period fixed in any order under the section last preceding may include also years previous to the commencement of this Act.

Period included in the last section, what to include

Provided that in such case the total sum mentioned in the said section shall be calculated by adding the amounts actually expended before the making of such order to the estimate of expenses to be incurred during the rest of the period included in such order.

65. The total sum mentioned in section 63 or in section 64 may be made recoverable in respect of the expenses of repairs and maintenance, and the expenses of works connected with the repairs and maintenance—

Works in respect of which such estimate may be made

- (a) of any protective works which may be specified in such orders,
- (b) of all the public embankments and water-courses in any district, or
- (c) of all the public embankments and water-courses within any tract of country specified in the order of the Lieutenant-Governor, and any such tract may contain the whole or portions of any one or more districts,

and no further sum shall be recoverable during such period in respect of the expenses of such repairs, maintenance and works connected therewith, save so far as any such works or repairs are executed under the provisions of section 18 or of section 31.

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But such total sum shall not include the expenses of executing any new works which may be undertaken under the provisions of this Act within any district or tract as aforesaid

Recovery of  
cost of new  
works

Whenever the Lieutenant Governor shall declare that any work executed or to be executed within such district or tract is a new work within the meaning of this section, the cost of executing such work and of maintaining the same shall be payable by the zamindars to the Collector under the provisions of this Act in addition to any total sum fixed under section 63 or section 64 as payable by them

Mode of ap-  
portionment

66 On publication of any order of the Lieutenant-Governor under section 63, the Collector shall proceed to charge or apportion the said total sum upon or among the zamindars and (except in respect of the embankments on the right and left banks of the river Gandak as provided in section 58) among the tenure-holders who are liable to pay the same, as above provided

Payment of  
sum appor-  
tioned

67 The sum so apportioned in respect of any estate or tenure on account of any such period as is mentioned in section 63 shall be payable in equal portions in each of the years included in such period, and each such portion if unpaid shall carry interest at five *per centum*, or at such rate, not exceeding five *per centum per annum*, as the Lieutenant-Governor may from time to time determine, from the end of the year in which it is payable.

Final order of  
apportion-  
ment

68 On the completion of any charge or apportionment under this Act, the Collector shall make an order specifying the estates and tenures in respect of which any sum charged or apportioned is payable, and the sums payable in respect of each of the instalments of such sums, and the dates on which such sums are payable

### 3—Recovery thereof

Publication of  
final order of  
apportion-  
ment

69 As soon as may be after any final order of apportionment is made, as provided in the section last preceding, the Collector shall cause copy of such order to be published with a general notice stating that the amounts apportioned on the zamindars in respect of estates are payable to the Collector, and the amounts apportioned on the tenure-holders in respect of tenures are payable to the zamindars or superior tenure holders. Instead of causing a general notice to be published, the Collector may cause special notices to the same effect to be served in respect of every estate and tenure on or among the zamindars or tenure-holders of which any sum is charged or apportioned.

Recovery of  
sums appor-  
tioned

70 If any such sum payable to the Collector, or any instalment thereof, be not, pursuant to the said order, paid, the same with interest may be recovered



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(Part VI—Cost of Works, Proceedings, etc.—Secs 71-73)

Ben. Act 7 of  
1880

as arrears of a demand under the provisions of the Public Demands Recovery Act, 1880, or any similar Act [1] for the time being in force

71 When a recorded shareholder of a joint revenue paying estate has opened a separate account under Act 11 of 1859,[2] or under section 70 of Bengal Act 7 of 1876,[3] or any similar law for the time being in force for the regulation of the opening and maintaining of such separate accounts, he shall be entitled in regard to the payment and realization of all sums due under this Act, to all the advantages of separate liability enjoyed by him under the said Act 11 of 1859,[2] and Bengal Act 7 of 1876,[3] respectively, in regard to the payment and realization of revenue, and shall be entitled to separate assessment and to the issue of a separate notice in every case in which special notice is, by this Act, required to be served, from the date on which such advantages shall take effect in respect of the demand of Government revenue

Effect of opening separate account under Act 11 of 1859 or Ben Act 7 of 1876

Similar privileges shall attach to every recorded holder of a revenue-free estate who has opened a separate account under section 46 of Bengal Act 9 of 1880[4] in respect of the amount of cesses payable by him

72 Notwithstanding anything contained in section 70, any such sum shall be a first charge on the estate in respect of which it is apportioned, and shall be deemed to be a demand debited to the estate in the public accounts of the district within the meaning of section 31 of Act 11 of 1859,[2] and such charge shall not be avoided by any sale, nor shall the joint liability of the entire estate for such sum be affected by any partition of the said estate which may subsequently take place.

Liability of estate for sum apportioned

73 If the Collector thinks it inexpedient to proceed for the recovery of such sum or any part thereof under the provisions of section 70, or having so proceeded shall have failed to realize the sum due, he may, with the sanction of the Board of Revenue, raise the amount necessary to discharge the sum or instalment remaining unpaid—

Amount apportioned may be raised by leasing or mortgaging estate

(a) by mortgaging the whole or any part of such estate,

(b) by letting in farm or managing by himself or another the whole or any part of such estate,

(c) partly by one of such modes and partly by another or others of them

For the purposes of this section the Collector may exercise all the powers of the owner of such estate, and his signature shall be a good and

[1] See now the Public Demands Recovery Act, 1895 (Ben Act 1 of 1895, printed in Vol IV of this Code), which repeals and re-enacts Bengal Act 7 of 1880. See also section 72, on this page

[2] The Bengal Land revenue Sales Act, 1859 It is printed in Vol IV of this Code

[3] The Land Registration Act, 1876 It is printed in Vol IV of this Code

[4] The Cess Act, 1880 It is printed *ante*, p 104

sufficient signature to any document necessary to carry into effect the said purposes

Recovery by  
zamindars  
and tenants  
holders

74 Every zaminder or tenure-holder to whom any sum or instalment thereof is payable under an order made in pursuance of section 68 may recover the same with interest as aforesaid in the manner provided for the recovery of arrears of rent in respect of patni tenures by the provisions of clauses 2 and 3 of section 8, sections 9, 10, 11, 15, and clauses 1, 2 and 3 of section 17 of Regulation 8 of 1819,[1] as amended by Bengal Act 8 of 1865,[2] or by the provisions of any similar Act for the time being in force

Provided that the right or interest of any person holding from the defaulter shall not be affected by any sale held under these provisions

## PART VII

### PENALTIES.

Penalty for  
obstructing  
persons in  
exercise of  
powers  
conferred  
by Act.

75 Whoever wilfully obstructs any person duly authorized under this Act in removing or levelling any embankment, house, hut or other building, or in the lawful exercise of any of the powers in this Act conferred, shall, in case such obstruction shall not amount to an offence within the provisions of the Indian Penal Code,[3] be liable to imprisonment of either description for any period not exceeding six months, at the discretion of the Magistrate, or to fine not exceeding two hundred rupees

45 of 1860

Penalty for  
unauthorized  
interference  
with embank-  
ments or  
drainage

[4]76. (a) Every person who, in any of the territories to which this Act extends, without the previous permission of the Collector, shall erect, or cause or wilfully permit to be erected, any new embankment, or shall add to any existing embankment, or shall obstruct or divert, or cause or wilfully permit to be obstructed or diverted, any water-course, if such act is likely to interfere with, counteract or impede any public embankment or any public water course,

Penalty for  
unauthorized  
interference  
with embank-  
ments or  
drainage in  
prohibited  
tract.

(b) every person who, within the limits of the tract included in any prohibitory notification under section 6, without the previous permission of the Collector, shall erect, or cause or wilfully permit to be erected, any new embankment, or shall add to any existing embankment, or shall obstruct or divert, or cause or wilfully permit to be obstructed or diverted, any water-course; and

[1] The Bengal Patni Taluks Regulation, 1819 It is printed in Vol. II of this Code.

[2] The Bengal Rent Recovery Act, 1865 It is printed in Vol. II of this Code.

[3] Printed in the General Acts, 1834-67, Ed. 1898, p 210.

[4] S. 76 extends to the Province of Orissa, the words "Superintendent of Embankments" being substituted for "Collector" in clauses (a) and (b)—*see s. 91, post*, p. 484.

of 1882 ]

THE BENGAL EMBANKMENT ACT, 1882

(Part VII—Penalties—Secs 77-79)

(c) every person who shall abet any such act as is mentioned in clauses (a) and (b),

Penalty for abetment of such acts.

shall be liable, on conviction, to a fine not exceeding five hundred rupees or in default of payment to imprisonment of either description for a period not exceeding six months

77 No person shall, without due authority, cut through, or attempt to cut through, any public embankment, or destroy, or attempt to destroy, any such embankment, or open or shut, or obstruct any sluice in any such embankment, or any public water-course, and every person who shall commit any breach of the provisions of this section shall, in case the act shall not amount to mischief within the meaning of the Indian Penal Code,[1] be liable to imprisonment of either description for a term not exceeding one month, or to a fine not exceeding two hundred rupees

Penalties for injuring embankments, etc

45 of 1860

78 Every person who shall make any dam or other obstruction for the purpose of diverting or opposing the current of a river or water-course wherein or whereon there are public embankments, without the permission of the officer in immediate charge of the embankments,

Penalties for diverting rivers or permitting cattle to graze on embankments, etc

or shall refuse or neglect to remove any such dam or obstruction so made by him when required to remove it by the Engineer, or without the permission of the Engineer previously obtained shall cut or otherwise alter the banks of any embanked river or water-course, or remove the earth from any public embankment, or drive stakes into it, or by any other wilful act destroy or diminish the efficiency of such embankment,

and every person who without such permission shall cause or knowingly and wilfully permit any cattle to graze upon any such embankment or tether or cause or wilfully permit any cattle to be tethered upon any such embankment, or root up any grass or other vegetation growing on any such embankment,

shall be liable to imprisonment of either description for a term not exceeding six months, or to a fine not exceeding two hundred rupees

79 Whenever any person is convicted of an offence under either of the three last preceding sections, the convicting Magistrate may order that he shall remove the embankment or obstruction, or repair the damage, in respect of which the conviction is held, within a period to be fixed in such order

Obstructions to be removed and damage repaired.

If such person neglects or refuses to obey such order within the fixed period, the Engineer may remove such embankment or obstruction or repair such damage, and the cost of such removal or repair shall be levied from such

[1] See Act 45 of 1860, s. 425, printed in General Acts, 1834-67, Ed 1898, p 352

THE BENGAL EMBANKMENT ACT, 1882 [Ben. Act 2  
(Part VIII—Miscellaneous—Sections 80, 81)

person in addition to any other penalty in the manner provided in section 307 10 of 1872 of the Code of Criminal Procedure [1]

PART VIII

MISCELLANEOUS

Mode of  
publishing  
proclamation  
and issuing  
notices

**80** Every proclamation and general notice by this Act required to be issued or given shall be published by affixing a copy of the same in the office of every Collector, Sub divisional Officer and Munsif within his jurisdiction, and at every police-station within the limits of which, any lands affected by such proclamation or notice are known by the Collector to be situated, and by affixing copies of the same in conspicuous positions in such hâts, bazars, towns, villages or other public places as the Collector may direct, and also by giving notice by beat of drum at such public places that such copies have been affixed and that one copy of the papers containing the information which is the subject of such proclamation or general notice is open to inspection by all concerned at the office of the Collector

Service of  
special  
notices

**81** Every special notice or order by this Act required to be served shall be served,—

- (1) by delivering a copy of the same to the person to whom it is directed, or, on failure of such service, by posting a copy on some conspicuous part of the house in which the said person resides, or by delivering a copy to any agent authorized to appear generally for the person to whom such notice or order is directed, or
- (2) by sending a registered letter containing a copy of such notice or order directed to the said person at his usual place of abode, or at the place where he may be known to reside, or
- (3) by posting a copy of the notice or order at the mal-cutcherry of the estate, village or tenure to which the same relates, or, if no such mal-cutcherry be found, on some conspicuous place on the said estate, village or tenure; or
- (4) if the person on whom the notice or order is to be served is a zamindar, by delivering a copy thereof to the agent who shall have paid an instalment of revenue next before or who may pay the instalment next after the preparation of such notice or order, on behalf of such zamindar

[1] This reference to section 307 of Act 10 of 1872 should now be taken to be made to sections 386, 387 and 389 of the Code of Criminal Procedure, 1893 (Act 5 of 1893)—see s. 3 (1) of the latter Act, in General Acts, 1891-98, Ed. 1899 p. 382

of 1882.]

THE BENGAL EMBANKMENT ACT, 1882

(Part VIII—Miscellaneous—Sections 82-87)

In all cases where two or more persons are holders of an estate or tenure, service under the last two clauses shall be deemed to be good and sufficient service on each and all of such persons.

14 of 1882

82. In any inquiry or appeal held under this Act, the Collector and the Commissioner shall respectively have the same powers as those conferred on Courts by the Code of Civil Procedure<sup>[1]</sup> of summoning and examining witnesses and compelling the production of documents.

Powers of Collector and Commissioner on inquiry and appeal

83. No proceedings under this Act shall be impeached or affected by reason of any mistake in the name of any person thereby rendered liable to pay any sum of money, or in the description of any estate or tenure or land in respect of which he is rendered liable to pay, provided the directions of this Act be in substance and effect complied with, and no proceedings under this Act shall for want of form be quashed or set aside in any Court of Justice.

No proceedings to be impeached for mistake or want of form

84. Every order passed by the Collector in respect of applications under section 18, and every order passed under sections 11, 50, 52 or 68, shall be appealable to the Commissioner of the Division, and every such order of the Commissioner, except when otherwise directed by this Act, shall be appealable to the Board of Revenue, but no appeal shall lie under this section against any order unless the same be presented within one month from the date of the order.

Appeal from orders

85. All the powers of a Collector under this Act shall be exercised under the general control and orders of the Commissioner of the Division, and all the powers of Collectors and Commissioners shall be exercised subject to the general control and orders of the Board of Revenue and of the Government.

General control of Commissioner and Government

Every order passed by any of the said authorities shall be subject at any time to be varied or set aside by the controlling authority.

86. Subject to the provisions of the two sections last preceding, every order passed by the Collector in respect of applications under section 18 and every order passed under sections 11, 50, 52 or 68, and every order passed by a controlling authority in respect of such order of a Collector, shall be final, and not liable to be modified or altered otherwise than as expressly provided in this Act.

Orders to be final

87. Whenever the maintenance of any public embankment, or the retention of any land appropriated to the purposes thereof, may no longer be required, and the permanent relinquishment of the same may be deemed expedient, such land shall be restored by the Collector to the estate or tenure

Disposal of lands no longer required for embankments

[1] See Act 14 of 1882, Chapters XIV and XV, in General Acts, 1882-84, Ed. 1893, pp 309, *et seq*

THE BENGAL EMBANKMENT ACT, 1882 [Ben. Act 2  
(Part VIII—Miscellaneous—Secs 88-90)

from which such land was originally taken on repayment of the compensation, if any, which was paid for such land when the same was taken for the purpose of the embankment

If persons who are entitled to the restoration of any land under this section, or any of them, refuse or neglect to pay such price within a reasonable time after demand, the same shall be sold by the Collector as a revenue-free holding for such price as he can obtain for the same

All sums obtained for lands conveyed under the provisions of this section shall, after the payment of all expenses incurred on account of the same, be applied to the payment of the cost of any new embankment or drainage-works, or of the expenses of maintaining any embankment or drainage-works affecting the said lands and other adjacent lands, in reduction of the amount chargeable upon the zamindars and tenure holders of the lands benefited, as hereinbefore provided, if any amount be so chargeable

Collector may  
delegate any  
of his powers  
to a Deputy  
Collector

88. A Collector may delegate any of his powers under this Act to a Deputy Collector, but from any order passed by a Deputy Collector to whom powers have been so delegated an appeal shall lie to the Collector if presented within thirty days of the date of the order

Every such delegation of power shall be reported to the Commissioner of the Division

Jurisdiction

89. All offences created by this Act shall be inquired into and tried by a Magistrate of the first or second class

Power to  
make, alter  
and cancel  
rules

90 The Lieutenant-Governor may from time to time make rules consistent with the provisions of this Act to regulate the following matters —

- (a) the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter,
- (b) the business of Embankment Committees,
- (c) the cases in which, the officers to whom and the conditions subject to which orders and decisions given under any provision of this Act, and not expressly provided for as regards appeal, shall be appealable;
- (d) the person by whom, the time, place or manner at or in which anything for the doing of which provision is made in this Act, shall be done;
- (e) the amount of any charge made under this Act, and
- (f) generally to carry out the provisions of this Act.

of 1882.]

THE BENGAL EMBANKMENT ACT, 1882

(Part VIII—Miscellaneous—Part IX—Special Provisions for the Province of Orissa—Sers 91-93)

The Lieutenant-Governor may from time to time alter or cancel any rules so made

Such rules, alterations and cancellation shall be published in the Calcutta Gazette, and shall thereupon have the force of law

Publication of rules

Provided that no rules shall be made by the Lieutenant Governor under the powers conferred on him by this section until a draft of the same shall have been published in the Calcutta Gazette for one month, after which time the Lieutenant-Governor may pass such rules as originally published, or with such alterations, additions and omissions as he may think fit

91 Nothing in this Act shall apply to any embankment, land or water-course which is under the operation of any of the following Acts—

Saving of operation of certain Acts

the Bengal Drainage Act, 1880,[1]

Ben Act 6 of 1880  
Ben Act 3 of 1876

the Bengal Irrigation Act, 1876,[2]

Bengal Act 5 of 1861[3] (*an Act to amend and consolidate the law relating to the collection of Tolls on Canals and other lines of navigation, and for the construction and improvement of lines of navigation, within the provinces under the control of the Lieutenant-Governor of Bengal*)

## PART IX

### SPECIAL PROVISIONS FOR THE PROVINCE OF ORISSA

92 The powers conferred on the Collector by section 25 may, in the Province of Orissa, be exercised by the Superintendent of Embankments with the consent of the Collector previously obtained, and the references in the said section to other parts of this Act shall be deemed to be references to the corresponding portions respectively of Act 32 of 1855 [4] (*an Act relating to Embankments*)

Powers conferred on Superintendent of Embankments in Orissa

The consequences mentioned in section 26 shall attach to everything done by the Superintendent of Embankments under the provisions of this section

Power to Engineer to act in urgent cases

93. In cases in which the Engineer in charge of any embankment may be of opinion that delay for the purpose of obtaining the orders of the Superintendent of Embankments and the Collector would be attended with grave and imminent danger to life or property, the Engineer may exercise the powers

[1] Printed *ante*, p. 348

[2] Printed in Vol II of this Code.

[3] The Canals Act, 1861. It is printed *ante*, p. 89.

[4] The Bengal Embankment Act, 1855. It is printed *ante*, p. 402

(Part IX—Special Provisions for the Province of Orissa—Sec 94—  
Schs I to III)

conferred on the said Superintendent with the consent of the Collector in pursuance of the last preceding section

The Engineer shall forthwith report to the said Superintendent any action taken by him under this section, and shall be guided by any instructions which he may receive from him in respect thereof

Sections  
made applic-  
able to Orissa

94 Sections 4, 5, 6, 34 and 76 shall extend to the Province of Orissa, the words "Superintendent of Embankments" being substituted for the word "Collector" in clauses (a) and (b) of section 76

#### SCHEDULE I (referred to in section 2)

(Portions of Bengal Act 6 of 1873 which are not repealed)

- 12 [Printed *ante*, p 418]
- 13 [Printed *ante*, p 419]
- 21. proviso [Printed *ante*, p 419]
- 26 [Printed *ante*, p 419]
- 27 [Printed *ante*, p 419]
- 28 [Printed *ante*, p 419]
- 29 [Printed *ante*, p 420]
- Schedules B, C, D and E [1]

#### SCHEDULE II (referred to in section 2)

Section of Bengal Act 6 of 1873 in which the reference is made	The reference as it stands	To what portion of the present Act the reference is to be read to apply
Section 12	To "the last preceding section"	Section 25
Section 12	To section 18	Section 30
Section 12 . . .	To section 25	Section 37
Section 21 . . .	To "such proceedings"	Section 19
Section 26 . . .	To Part III	Part III
Section 26 . . .	To "this Part"	Part V

#### SCHEDULE III (referred to in section 8)

Notice is hereby given, as required by section 8, Bengal Act 2 of 1882, to all persons interested, that it appears to the Collector that the following

[1] Printed *ante*, pp. 420 to 450.



of 1882 ]

THE LENGAL EMBANKMENT ACT, 1882

(Sch III)

work should be done, that is to say [here state the nature of the work and the purpose for which it is to be undertaken] \* *For the execution of this work the undermentioned land will be required to be taken up —*

1	2	3
Pargana in which land is situated	Village in which land is situated	Area of land

Estimates of the proposed work, with the necessary specifications and plans, together with a copy of the survey map showing the lands likely to be affected by the said work, are open for inspection at this office by any interested person who is allowed to take copies thereof

† The total probable cost of such work will be the sum of Rs. and the rate per acre of the area benefited or protected by the said work is estimated at Rs.

The following estates and villages will probably be affected by the work proposed [*here set out a list of the estates and villages*]

Any person interested and wishing to show cause against the execution of the works specified is hereby required to appear before the Collector for that purpose on the                      day of

The                      day of

A B,  
Collector of

\* The words in italics and the figure in form to be omitted if no land is to be acquired

† These words may be omitted, unless it is proposed to recover the cost of the work from the zamindars and tenure holders

# EXCISE

Ben Act 7 of 1878	the Bengal Excise and Li- censing Act, 1878	page 490
Ben Act 4 of 1881	the Bengal Excise Act (Am- endment) Act, 1881	„ 513
Ben Act 1 of 1883	the Bengal Excise (Amend- ment) Act, 1883	„ 515
Act 9 of 1885	the Excise and Sea Customs Law Amendment Act, 1885	„ 517
Act 13 of 1890	the Excise (Malt-Liquors) Act, 1890	„ 518
Ben. Act 2 of 1903	the Bengal Excise and Li- censing (Amendment) Act, 1903	„ 519

## THE BENGAL EXCISE AND LICENSING ACT, 1878 (BENGAL ACT 7 OF 1878)

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## THE BENGAL EXCISE AND LICENSING ACT, 1878

(BENGAL ACT 7 OF 1878) [1]

[24th July, 1878]

An Act to consolidate and amend the law relating to

[1] LEGISLATIVE PAPERS—For Statement of Objects and Reasons, *see* Calcutta Gazette, 1878, Pt IV, p 57, for Report of Select Committee, *see ibid*, p 89, and for Proceedings in Council, *see ibid*, Supplement, 1878, pp 16, 173, 402 and 449

LOCAL EXTENT—This Act extends to the whole of Bengal—*see* s 2

It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s 3, to be in force in the following Scheduled Districts, namely—

the Hazaribagh, Ranchi, Palamau and Manbhum Districts and Pargana Dhalbhum and the Kolhan, in the Singhbhum District, in the Chota Nagpur Division—*see* Vol V, Part V B (b)

The Act is in force in the following de-regulationised tracts, namely—

the Angul District—*see* Vol V, Part VI B (a) and

the Sonahal Parganas—*see ib*, Part VI B (c),

but its application in the other de-regulationised tracts in Bengal, namely, the Chittagong Hill tracts, is barred by the Chittagong Hill tracts Regulation, 1900 (1 of 1900), s 4 (2), *ante*, p 282

REPRINT—This Act has been reprinted (by the Legislative Department of the Government of Bengal) as modified by subsequent legislation up to the 1st December, 1903

It is also reprinted in the Excise Manual, 1903, Vol I, p 44

RULES, ETC—For rules made by the Board of Revenue under the Act, *see* the Excise Manual, 1903 pp 67 *et seq*, and for forms, notifications and circular orders as to Excise, *see ibid*, Vol II, pp 31 *et seq*

For a list of rules and orders made under the Act, *see* the Bengal Local Statutory Rules and Orders, 1903, Vol I, pp 103 to 103

AMENDING ACTS—*See* the Acts printed on pages 513 to 520, *post*. Of these enactments, Bengal Acts 4 of 1881 and 1 of 1883 are “to be read with and taken as part of” the present Act—*see* s 1 of each of these Acts *post*, pp 513 and 515

PROPOSED CONSOLIDATION OF EXCISE ACTS—It is proposed in the Bengal Excise Bill, which is now (September, 1904) before the Bengal Council, to consolidate, with amendments, all the enactments which are printed under the head “Excise” in this Code

OTHER ENACTMENTS RELATING TO EXCISE IN BENGAL—*See* the following enactments, *viz*—

- (1) the Bengal Land revenue Regulation, 1793 (2 of 1793), s 7 and s 8, clause *tenth* (printed in Vol II of this Code), which declare that Collectors are, under the superintendence of the Board of Revenue, to collect the tax on spirituous liquors and intoxicating drugs or articles,
- (2) the Excise (Spirits) Act, 1863 (16 of 1863), in General Acts, 1834-57, Ed 1898, p 403,
- (3) the Calcutta Suburban Police Act, 1866 (Ben Act 2 of 1866), ss 18 to 24, printed in Vol IV of this Code,
- (4) the Calcutta Police Act, 1866 (Ben Act 4 of 1866), ss 33 to 41, printed in Vol IV of this Code,
- (5) sections 26, 28, 133, 144 to 155 and 163 of the Sea Customs Act, 1878 (8 of 1878), in General Acts, 1877-81, Ed 1898, pp 177 *et seq*
- (6) the Cantonments Act, 1889 (13 of 1889), Ch III, in General Acts, 1885-90, Ed 1898, p 340;
- (7) the Indian Tariff Act, 1894 (8 of 1894), s. 10 (printed in General Acts, 1891-98, Ed 1899, p 126), which declares the effect on contracts of an alteration in excise duty,
- (8) the Cotton Duties Act, 1896 (2 of 1896), printed in General Acts, 1891-98, Ed 1899, p 261,
- (9) the General Clauses Act, 1897 (10 of 1897) s 12 (printed in General Acts, 1891-98, Ed 1899, p 325), which declares that excise duty may be taken *pro rata*,
- (10) the Chittagong Hill tracts Regulation, 1900 (1 of 1900), Ch 4, *ante*, p 283, and
- (11) the enactments printed and referred to under the headings “Opium” and “Salt” in Vol. IV of this Code

of 1878 ] THE BENGAL EXCISE AND LICENSING ACT, 1878

(Part I — Preliminary — Secs 1-3)

[1][exciseable articles and the revenue derivable therefrom] in the Presidency of Fort William in Bengal

WHEREAS it is expedient to consolidate and amend the laws relating to the manufacture, sale and possession of exciseable articles [2], [to the regulation and licensing of places in which such articles are sold], and to the collection of the revenue derived therefrom, It is enacted as follows —

PART I

PRELIMINARY

1. This Act may be cited as the Bengal Excise [3] [and Licensing] Act, Short title 1878

2. It extends, save as is hereinafter expressly specified, to all the territories for the time being administered by the Lieutenant-Governor of Bengal

[Commencement] Rep by the Repealing and Amending Act, 1897 (5 of 1897)

3 The enactments specified in the Schedule hereto annexed are hereby repealed, to the extent mentioned in the third column thereof

This repeal shall not revive any office, authority or thing abolished by any such enactment, or affect the validity of anything done or suffered, or any right, title, obligation or liability accrued before the commencement of this Act

And all rules prescribed, appointments made, powers conferred, licenses granted and notifications published under any such enactment, and all other rules (if any) now in force and relating to the matters hereinafter dealt with, shall (so far as they are consistent with this Act) be deemed to have been respectively prescribed, made, conferred, granted and published hereunder

And all references made to any such enactment shall, as far as may be practicable, be deemed to be made to this Act

\* \* \* \* \*

[1] These words in square brackets in the title were substituted for the words "the excise revenue" by the Bengal Excise and Licensing (Amendment) Act, 1903 (Ben Act 2 of 1903), s 2, printed *post*, p 520

[2] These words in square brackets in the preamble were inserted by s 3 of the same Act

[3] The words "and Licensing" in s 1 were inserted by s 4 of the same Act

[4] The concluding paragraph of s 3, which was repealed by the Repealing and Amending Act, 1903 (1 of 1903), is omitted. The paragraph ran as follows —

"And all proceedings now pending, which may have been commenced under any such enactment, shall be deemed to be commenced under this Act"

Interpreta  
tion clause

4 In this Act, unless there be something repugnant in the subject or context,—

“Board ”

“Board ” means the Board of Revenue for the provinces for the time being administered by the Lieutenant Governor of Bengal

“Collector ”

“Collector ” includes also a Deputy Collector or other revenue officer in independent charge of the district,

a Superintendent of Excise-revenue,

any covenanted or uncovenanted officer to whom the Collector may make over, with the previous sanction of the Commissioner (as he is hereby empowered to do), any of his powers or duties under this Act

“Commis  
sioner ”

“Commissioner ” means the Commissioner of a Revenue Division

“Exciseable  
article ”

“exciseable article ” includes spirituous and fermented liquors and intoxicating drugs as defined by this Act .

[1] [“foreign exciseable article ” means any exciseable article manufactured or produced at any place beyond the limits of British India, or at any place in British India in which no duty of excise is levied upon the manufacture or production of such article ]

“ Fermented  
liquor ”

“fermented liquor ” includes—

malt-liquor of all kinds ,

tán, fresh or fermented ,

pachwai, diluted or undiluted , and

any other intoxicating liquor which the Local Government may from time to time declare to be included in this definition

“ Intoxicating  
drugs ”

“intoxicating drugs ” include—

gánja ,

bhang or suddhi ,

charas ,

every preparation and admixture of any of the above ,

any other intoxicating drug which the Local Government may from time to time declare to be included in this definition

“ Local Gov  
ernment ”

“Local Government ” means the Lieutenant Governor of Bengal for the time being, or the person acting in that capacity .

“ Section.”

“section ” means a section of this Act

“ Spirituous  
liquor.”

“spirituous liquor ” includes any spirituous liquor imported into India or manufactured in India by any process of distillation

[1] This clause in square brackets in s 4 was inserted by the Bengal Excise Act Amendment Act, 1881 (Ben Act 4 of 1881), s. 3, *post*, p 514.



of 1878] THE BENGAL EXCISE AND LICENSING ACT, 1878

(Part II—*Manufacture of Exciseable Articles*—Secs 5 9)

[1] ["licensed vendor or manufacturer" means a vendor or manufacturer licensed under this Act

"Licensed vendor or manufacturer"

"tárf" means the sap of any kind of palm tree]

"Tarf"  
"The town of Calcutta"

"the town of Calcutta" includes all places within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Fort William in Bengal

For the purposes of this Act, the town of Calcutta shall be deemed to be a separate district

"Calcutta" a separate district

PART II

MANUFACTURE OF EXCISEABLE ARTICLES

5 No person shall manufacture any exciseable article, or cultivate plants from which intoxicating drugs are produced, without a license from the Collector

License required for manufacture or cultivation

6 No person shall construct or work a brewery without a license from the Collector

License required for brewery

7 No person shall construct or work a distillery after the manner in which distilleries are constructed and worked in Europe [2] without a license under the signature of the Collector of the district in which such distillery is situated, or, in case the distillery is within twenty miles of Calcutta, or such other distance less than twenty miles as may from time to time be prescribed by the Local Government, without a license under the signature of the Collector of Calcutta

License required for European distillery

8 The Board may from time to time make rules relative to—

the granting of licenses under the two last preceding sections,  
the management of distilleries and breweries established under the said sections, and  
the issue of spirituous and fermented liquors therefrom

Power to make rules as to breweries and European distilleries

9 The Collector, with the sanction of the Board, may—

establish, at any place within his jurisdiction, a distillery in which spirituous liquors may be manufactured after native processes,  
from time to time fix limits within which no such liquors, unless manufactured at the said distillery, shall be introduced or sold without a pass

Powers of Collector as to native distilleries

[1] These definitions of "licensed vendor or manufacturer" and "tárf" were inserted by the Bengal Excise (Amendment) Act, 1883 (Ben Act I of 1883), s 2, *post*, p 515

[2] As to the manufacture of spirituous liquors after native processes in a distillery established under s 7, *see* s 9

THE B'NGAL EXCISE AND LICENSING ACT, 1878 [Ben Act 7  
(Part II—*Manufacture of Exciseable Articles*—Part III—*Sale and Possession of Exciseable Articles*—Secs 10-12)

from the Collector, and within which no stills shall be constructed or worked, or spirituous liquors manufactured, except at the said distillery, discontinue any distillery so established

[1] [Nothing in this section, or in section 7, shall be held to debar the Collector, with the sanction of the Board, from granting a license for the manufacture of spirituous liquors after native processes in a distillery established under section 7]

Power of Board to make rules as to native distilleries

10 The Board may from time to time make rules relative to—  
the management of distilleries established under the last preceding section,  
the conditions on which spirituous liquors may be manufactured in the said distilleries, and  
the issue of such liquors therefrom

Prohibition of possession of unlicensed still

[2] 10A No person shall have in his possession a still for the manufacture of spirituous liquors for which he has not obtained a license

### PART III

#### SALE AND POSSESSION OF EXCISEABLE ARTICLES

License required for sale of exciseable article

11. No person shall sell any exciseable article without a license from the Collector [3] [or otherwise than in accordance with the conditions expressed in such license] [4]

License for wholesale vend

12 Persons taking out licenses for the wholesale vend of spirituous and fermented liquors shall pay, for every such license, such sum as the Board from time to time prescribes

The license shall be current only in the district in which it is granted

But travelling merchants may obtain, under such rules and restrictions as the Board from time to time may prescribe, a general license, authorizing them to sell by wholesale in any district which they may visit in the course of their travel, without taking out a fresh license for that district.

[1] This clause in square brackets was substituted for the words "and permit the manufacture of such liquors in distilleries established under section 7" by the Bengal Excise Act, Amendment Act, 1881 (Ben Act 4 of 1881), s 4, *post*, p. 514

[2] S 10A was inserted by the Bengal Excise (Amendment) Act, 1883 (Ben Act 1 of 1883), s. 3, *post*, p. 515

[3] These words in square brackets in s 11 were inserted by the Bengal Excise and Licensing (Amendment) Act, 1903 (Ben Act 2 of 1903), s 5, *post*, p. 520

S 11 does not apply in certain cases—*see* s 55, *post*, p. 505

[4] As to the powers of the Commissioner of Police in respect of excise licenses in Calcutta and Suburbs, *see* ss. 36 to 41 of the Calcutta Police Act, 1866 (Ben. Act 4 of 1866), and ss 19 to 24 of the Calcutta Suburban Police Act, 1866 (Ben. Act 2 of 1866), respectively, in Vol. IV of this Code.

of 1878] THE BENGAL EXCISE AND LICENSING ACT, 1878

(Part III—Sale and Possession of Exciseable Articles—Secs 13-15)

13 Persons taking out licenses for the retail-sale of exciseable articles, or for the establishment of outstills and the sale of the liquor manufactured therein, shall pay for every such license such fee or duty as may from time to time be fixed with the sanction of the Board, or a fee or duty regulated in such manner and in accordance with such rules as the Board may prescribe,

License for retail sale or for outstills

and such fee or duty shall be specified in the license, and shall be payable at such periods as the Board may direct

14. The Local Government may suspend the operation of all the provisions relating to tari contained in this Act, with respect to any district in which the consumption of t    in a fermented state is inconsiderable, and thereupon t    may be possessed and sold without license in any such district, notwithstanding anything contained in this Act

Power to suspend operation of provisions relating to tari

15 [1] [The sale of any exciseable article in a larger quantity than is specified below shall be deemed to be a sale by wholesale, and the sale of any other quantity shall be deemed to be a retail-sale provided that the Board may from time to time by rule fix any larger quantity as the limit for a retail-sale of any exciseable article

Wholesale and retail sale

spirituous or fermented liquors, imported by sea, two imperial gallons or twelve reputed quart bottles

other spirituous or fermented liquors, excepting t    and pachw   , one seer, or one reputed quart bottle

t    or pachw   , four seers,]

g   ja, siddhi or bhang, or any preparation or admixture of the same, one quarter of a seer,

charas or any preparation or admixture of the same, five tolas weight

No licensed wholesale vendor shall sell by retail, and no licensed retail vendor shall sell by wholesale.

Under this section a sale of an assortment of spirituous or fermented liquors in the quantity, specified above, or in less quantity, by a licensed wholesale vendor, and a similar sale of such liquors in greater quantity than is specified above by a licensed retail vendor, are prohibited.

Sale of assortment

The Board may by rule define what shall be held to be an assortment for the purposes of this section

The Board may also determine what shall be a retail sale of any article from time to time declared by the Local Government to be included in the definition of intoxicating drugs under this Act

Retail sale of intoxicating drugs.

[1] The words in square brackets in s 15 were substituted for the original words by the Bengal Excise (Amendment) Act, 1883 (Ben. Act 1 of 1883), s. 4, post, p 515.

THE BENGAL EXCISE AND LICENSING ACT, 1878 [Ben. Act 7  
(Part III—Sale and Possession of Exciseable Articles—Part IV—Duties—  
Secs 16 18)

Restriction  
of sale of  
ganja and  
bhang

16 No cultivator of the plants producing ganja or bhang shall sell such plants, or any ganja or bhang produced therefrom, to any one other than a person duly authorized to purchase the same by pass or license from the Collector

Illegal pos-  
session

[1] 17 No person, not being a licensed manufacturer or vendor or a person duly authorized to supply licensed vendors, shall have in his possession a greater quantity of any exciseable article than that specified in section 15, or than the quantity which may be fixed by the Board under the said section as the limit for a retail sale of any such article

Regulation of  
possession of  
certain foreign  
exciseable ar-  
ticles

[2] 17A The Board, with the sanction of the Local Government, may, from time to time, declare, by a notification published in the Calcutta Gazette, in respect of any foreign exciseable article, except spirituous and fermented liquors imported by sea and kept only for private use and consumption and not for sale,—

(1) that the possession of such foreign exciseable article is absolutely prohibited in any quantity whatsoever in the districts or tracts specified in the notification, or

(2) that such possession shall be limited to specified quantities unless the Collector or other officer duly authorized in that behalf shall grant a license for the possession of a larger quantity of such article

The Board may, from time to time, if it think fit, fix the fee or duty payable for such license

## PART IV

### DUTIES

Removal of  
spirituous or  
fermented  
liquor from  
distilleries or  
breweries

18. No spirituous [3] [or fermented] liquor shall be removed from any distillery [3] [or brewery] or the warehouses connected therewith, upon which duty has not been paid [4] [at such rate as the Local Government may, from time to time, fix in respect of such spirituous (or fermented) liquor] or until

[1] This section was substituted for the original s 17 by the Bengal Excise (Amendment) Act, 1883 (Ben Act 1 of 1883), s 5, *post*, p 515. The original s 17 ran thus:

"No person, not being a licensed vendor, shall have in his possession a greater quantity of any exciseable article than that specified in section 15"

S. 17 does not apply in certain cases—*see* s 61, *post*, p 506

[2] S 17A was inserted by the Bengal Excise Act Amendment Act, 1881 (Ben Act 4 of 1881), s 5, *post*, p 514

[3] The words "or fermented" and "or brewery," in s 18, were inserted by the Excise (Malt Liquors) Act, 1890 (13 of 1890), s 6, *post*, p 518

[4] The words "at such rate as the Local Government may, from time to time, fix in respect of such spirituous liquor", in s. 18, were substituted for the words "at the rate leviable under any Tariff Act for the time being in force" by the Excise and Sea Customs Law Amendment Act, 1885 (9 of 1885), s. 3, printed *post*, p. 517, and the words "or fermented" were inserted by the Excise (Malt Liquors) Act, 1890 (13 of 1890) s. 6, printed *post*, p. 518.

of 1878] THE BENGAL EXCISE AND LICENSING ACT, 1878

(Part IV.—Duties —Part V —Farm of Duties —Secs 19-21)

a bond has been executed for such duty

For all spirituous [1] [or fermented] liquor removed upon payment of duty or under bond, passes shall be issued by the Collector, which shall specify—  
the quantity and description of the liquor,  
the place of its destination,  
the amount of the duty,  
the person to whom it is consigned, and  
whether the duty has been paid or secured by bond, and  
the period for which the pass shall be current

19 Spirituous [2] [or fermented] liquor manufactured at any place in India beyond the limits of British India [3] [or at any place in British India in which no duty of excise is levied upon its manufacture] shall, on passing the limits of the territories to which this Act applies, be charged with the duty prescribed for spirituous [2] [or fermented] liquor in the last preceding section

Duty on importation of spirituous or fermented liquors

[4] 19A. In respect of exciseable articles manufactured in any part of British India beyond the limits of the territory to which this Act extends, the Board may from time to time, with the sanction of the Local Government, frame rules for prescribing the conditions under which the said articles may be imported, and, where no duty has previously been paid on such articles, the conditions under which the same may be imported and bonded within such limits

Rules for the importation and bonding of exciseable articles manufactured in British India outside Bengal

PART V.

FARM OF DUTIES.

20. The Collector may, with the sanction of the Board, let in farm the duties leviable on the retail sale of exciseable articles or any of them in any district or division of a district.

Power to farm

21. The Board may prescribe rules—

for the invitation and acceptance of tenders for such farms,

Power to make rules as to farming.

[1] The words "or fermented" in s 18 were inserted by the Excise (Malt Liquors) Act, 1890 (13 of 1890), s 6, *post*, p 518

[2] The words "or fermented" in s 19 were inserted by s 7 of the same Act, *post*, p 519

[3] The words "or at any place in British India in which no duty of excise is levied upon its manufacture," in s 19, were inserted by the Bengal Excise Act Amendment Act, 1881 (Ben Act 4 of 1881), s 6, *post*, p. 514.

[4] S 19A was inserted by the Bengal Excise (Amendment) Act, 1883 (Ben. Act 1 of 1883), s 6, *post*, p 515.

THE BENGAL EXCISE AND LICENSING ACT, 1878 [Ben Act 7  
(Part V—Farm of Duties—Part VI—Licenses—Secs 22-26)

for the requisition of security for the due fulfilment of the engagements entered into by the farmers, and  
as to the form and conditions of the lease

Annulment  
of lease  
Right of farmer  
to make  
arrangements  
with local  
manufacturers  
and vendors

Any breach of such conditions shall render the lease liable to annulment

22 When the duties leviable on any exciseable articles are let in farm, the farmer shall be at liberty to make his own arrangements with the manufacturers and vendors within the limits of his farm,

and all the fines hereinafter prescribed, for the unlawful manufacture, sale or possession of any such article, shall be incurred by all persons manufacturing, selling or possessing the same without license or authority from the farmer.

List of farmers  
licenses

23 Every such farmer shall file in the Collector's office a list of all the licenses granted by him, in such form as may be prescribed by the Board

Restrictions  
as to grant of  
licenses

The Collector may, with the sanction of the Board, before entering into engagements for any such farm, make such reservations or restrictions with respect to the grant of licenses as he thinks fit.

Cancellation  
of, or addition  
to, lease

24. The Collector may, with the sanction of the Board, cancel any lease granted under this Act, or may, within the period of the lease, impose any new restriction on the farmer

Compensation  
to farmers in  
certain cases

If a lease be cancelled for any cause other than a breach on the part of the farmer of the conditions of the lease, or if any reservation or restriction with respect to the grant of licenses be imposed within the period of the lease, the farmer shall be entitled to receive such compensation for any loss which he sustains thereby as the Board thinks fit

Recovery by  
farmers of ar  
rears of fee or  
duty

25. Every farmer of excise-revenue may use the same means and processes for the recovery of any arrear of fee or duty due to him from any authorized vendor, as may be lawfully used by zamindars and farmers of land for the recovery of arrears of rent due to them from their under-tenants.[1]

## PART VI.

### LICENSES

Counterpart  
engagement  
and security

26. Every person taking out a license under this Act shall execute a counterpart engagement in conformity with the tenor of the license, [2] [if required by the Collector to do so], and shall give such security for the

[1] See the enactments printed under the head "Landlord and Tenant" in Vol II of this Code.

[2] The words in square brackets in s. 26 were inserted by the Bengal Excise (Amendment) Act, 1883 (Ben Act 1 of 1883), s. 7, *post*, p 515

of 1878.] THE BENGAL EXCISE AND LICENSING ACT, 1878

(Part VI —Licenses —Secs 27-28 )

performance of his engagement, or make such deposit in lieu of security, as the Collector may require

27 Unless the Board shall otherwise specially direct, [1] [no license granted under this Act shall be transferable by the licensee or shall endure for a longer period than] the term of one year and, if continued to the holder thereof, shall be formally renewed from year to year

Duration and renewal of license

But every person holding a license, who may intend not to renew it, shall give notice of his intention to the Collector at least fifteen days before the year expires

If such notice be not given and the license be not recalled by the Collector, the license held, and engagement entered into, by every such person shall remain in force for such time as the Collector may think fit, as if the said license and engagement had been formally renewed

[2] 27A. (1) No licensed vendor shall, during the hours in which his licensed premises may be kept open, employ, or permit to be employed, in the public rooms of his licensed premises, either with or without remuneration, any woman to assist him in the conduct of such business in any capacity whatsoever, otherwise than with permission previously obtained in writing from the Board

Employment of women by licensed vendors

(2) Such permission shall be endorsed on his license and may from time to time be modified or withdrawn

28 The Board may regulate the form and conditions [3] [consistent with this Act] of all licenses granted under this Act,

Form and conditions of license,

[4] [and in particular, but without prejudice to the generality of the foregoing power, may insert in any license granted under this Act conditions relating to all or any of the following matters to be observed by the licensee, and may modify such conditions from time to time,—

Conditions to be attached to licenses.

- (1) as to the place of sale and the places from which exciseable articles for purposes of sale may be obtained,
- (2) as to the transfer of a license by the person to whom such license was originally granted to any other person,
- (3) as to the hours during which licensed premises may, or may not, be kept open,

[1] These words in square brackets in s 27 were substituted for the words "every license shall be granted for" by the Bengal Excise and Licensing (Amendment) Act, 1903 (Ben Act 2 of 1903), s 6, printed *post*, p 520

[2] S 27A was inserted by s 7 of the same Act, printed *post*, p 520

[3] The words "consistent with this Act," in s 23, were inserted by s 8 of the same Act, printed *post*, p 520

[4] The clause in section 28 which is printed in square brackets was added by s 8 of the same Act, printed *post*, p 520

THE BENGAL EXCISE AND LICENSING ACT, 1878 [Ben Act 7  
(Part VI — Licenses — Part VII — Powers of Officers — Secs 29-31)

- (4) as to the persons or classes of persons to whom a licensee may, or may not, sell exciseable articles,
- (5) as to the employment of women under section 27A,
- (6) as to the keeping by licensed vendors of accurate accounts of the sales of exciseable articles in such form as may from time to time be fixed by the Board,
- (7) as to the placing of sign boards over the shops of licensed vendors in such form as may be fixed by the Board]

Cancellation  
and recall of  
license

29. The Collector may cancel any license granted under this Act, if the fee or duty therein specified be not duly paid, or in case of a violation of any other condition thereof, or of the holder being convicted of a non-bailable criminal offence,

and in such cases the holder shall not be entitled to a refund of any fee or duty payable under the license which he may have paid to the Collector in advance

If the Collector desires to recall a license for any cause other than those above specified, he shall give fifteen days' previous notice [1] [in writing] and remit a sum equal to the fee or duty for fifteen days, or, if [2] [such] notice be not given, shall make such further compensation for default of notice as the Commissioner or Board directs

In all such cases any fee or duty already paid in advance shall be refunded

Surrender of  
license

30 Any licensed vendor may surrender his license on giving fifteen days' previous notice [3] [in writing] to the Collector, and paying a sum equal to the fee or duty for fifteen days in addition to the sum payable under the license.

## PART VII

### POWERS OF OFFICERS

Functions of  
Collectors and  
control by  
Commissioner  
and Board.

31 The collection of the revenue arising from the manufacture and sale of exciseable articles shall be ordinarily under the charge of the District Collectors, who shall perform the duties connected therewith under the control and direction of the Commissioners and of the Board,

and all proceedings of the Collectors shall be subject, with or without appeal, to the revision of the Commissioners,

[1] The words "in writing" in s. 29 were inserted by the Bengal Excise (Amendment) Act, 1883 (B. n. Act I of 1883), s. 8, *post* p. 56

[2] This word "such" in s. 29 was inserted by s. 8 of the same Act, *post*, p. 516

[3] The words "in writing" in s. 30 were inserted by s. 9 of the same Act, *post*, p. 516



of 1878 ] THE BENGAL EXCISE AND LICENSING ACT, 1878  
(Part VII—Powers of Officers - Secs 32-37)

and all proceedings of the Collectors and Commissioners shall be similarly subject to the revision of the Board

32 The Local Government may appoint any person to be Superintendent of excise revenue, or of any branch of excise-revenue, in any district or place, and the person so appointed shall exercise in such district or place, or with respect to such branch of excise revenue, all the powers and authority conferred by this Act on the Collector, and the Collector shall cease to exercise such powers and authority in such district or place, or with respect to such branch of excise revenue, during the continuance of such appointment

Appointment and functions of Superintendent of excise revenue

33 The Local Government may also appoint a Commissioner or Commissioners for the control and direction of the officers having charge of the excise-revenue in any district or districts, and, when such appointment is made, the Commissioner of Excise shall exercise, within such district or districts, the powers and authority conferred by this Act on Commissioners of Revenue, and the Revenue Commissioner shall cease to exercise such powers and authority in such district or districts during the continuance of such appointment

Appointment and functions of Commissioners of Excise

34 Collectors may appoint such officers as are necessary for the collection of the excise revenue and for the prevention of smuggling, and the officers so appointed shall, in addition to their ordinary designation, be styled excise-officers [1]

Appointment of excise-officers

35 The Board may regulate the mode in which tãrî shall be supplied to licensed vendors of the same, and may frame rules for the grant of licenses or passes to persons purchasing, transporting or storing gánja, bhang or siddhî, or chûas, for the supply of the licensed vendors of those drugs

Regulation of supply of tãrî and of purchase, etc., of intoxicating drugs

The Board may also place the cultivation, preparation and store of such drugs under such supervision as may be deemed necessary to secure the duty leviable thereon

36 The Collector may recover any arrear of fee or duty due on account of any license granted under this Act,

Recovery of arrears of fee or duty.

or any arrear due from any farmer of excise-revenue, by distress and sale of the moveable property of the person from whom the arrear is due, or of his surety \* \* \* [2].

37 The Collector may by a warrant under his hand, authorize any

Power to authorize

[1] As to when officers of police, customs or revenue become "excise officers," see s 41, *post* p 502

[2] The words and figures "or by the process described in Bengal Act 7 of 1868," which were repealed by the Public Demands Recovery Act, 1880 (Ben. Act 7 of 1880), s 3, are omitted. As to the employment of the Public Demands Recovery Act, 1895 (Ben. Act 1 of 1895) for the realisation of money recoverable under s. 36 of Ben. Act 7 of 1878, see section 7 (1) (d) of the former Act, in Vol IV of this Code

THE BENGAL EXCISE AND LICENSING ACT, 1878 [Ben Act 7  
(Part VII—Powers of Officers—Secs 38 41)

excise officers  
to enter and  
inspect licen-  
see's premises

excise-officer above the rank of a peon to enter and inspect at all times, by day or by night, and may similarly authorize any excise-officer to enter and inspect, at all times by day, the shop or premises in which any licensed manufacturer or retail vendor carries on the manufacture of spirituous or fermented liquors or the sale of exciseable articles

Power to  
authorize  
excise officer  
to make  
arrest and  
seizure in  
certain cases

38 The Collector may, by a warrant under his hand, authorize any excise-officer to stop and detain all persons carrying any exciseable articles liable to confiscation under section 75,

and any excise officer so authorized may seize such articles, and arrest the person in possession of the same

Power of  
excise officer  
to make  
arrest and  
seizure in  
certain other  
cases

39. Any excise officer above the rank of a peon may arrest any person having in his possession an unlicensed still, or any exciseable article liable to confiscation under section 75, or engaged in the unlawful manufacture or sale of such exciseable articles,

and may seize such still with all such articles, and the materials used in such manufacture

Power of  
excise officer  
to make  
entry, seizure  
and arrest in  
certain other  
cases

40 Whenever any excise-officer above the rank of a peon has reason to believe, from information given by any person (which information shall be taken down in writing),

that any exciseable articles are unlawfully manufactured,

or that any exciseable articles, liable to confiscation under section 75, are kept or concealed in any house, boat or other place,

such officer may, but always in the presence of an officer of police not being under the grade of a corporal or head-constable, enter into any such house, boat or place,

and, in case of resistance, may break open any door, and force and remove any other obstacle to such entry,

and may seize and carry away all stills and materials used in such manufacture, and all such exciseable articles,

and may also arrest the occupier of the house, boat or place, with all other persons concerned in the manufacture of such articles or in the keeping and concealing of the same.

Power to  
confer on  
officers of  
police, cus-  
toms and  
revenue

41. The Local Government may confer on the officers of the police, customs and revenue departments, or any of them, the powers given to excise-officers by the two last preceding sections with respect to the seizure of, and search for, exciseable articles, and the arrest of persons in possession thereof.

of 1878 ] THE BENGAL EXCISE AND LICENSING ACT, 1878

(Part VII—Powers of Officers—Secs 42-45)

All officers so empowered shall be deemed to be excise-officers within the meaning of this Act

departments  
authority to  
make  
searches  
seizures and  
arrests  
Exercise of  
the said  
powers by  
police officers  
in Calcutta

42 The said powers may, in the town of Calcutta, also be exercised by any police-officers specially selected by the Commissioner of Police for such purpose,

and the powers which are conferred upon the Collector by this Act, as regards the issue of warrants directed to excise-officers, may also be exercised by the Commissioner of Police for the said town in respect of the issue of warrants directed to police-officers selected as aforesaid

Provided that the Collector shall not issue a warrant directed to a police-officer, nor shall the Commissioner of Police issue a warrant directed to an excise-officer

43 Any excise or police-officer above the rank of peon or constable, who has reason to believe that any chemist, druggist, apothecary or keeper of a dispensary within the town or the suburbs of Calcutta, or in Howrah, allows, between sunset and sunrise, spirituous or fermented liquors, which have not been *bona fide* medicated, to be drunk on his business premises by any person not employed in his business,

Power to  
arrest persons  
drinking, and  
seize liquors  
drunk on  
chemists'  
premises

may enter upon such premises, and seize and carry away such liquors,

and, in case of resistance, break open any door, and force and remove any other obstacle to such entry or seizure,

and arrest and detain the owner or occupier of the said premises, with all parties concerned in such unlawful drinking

44 Whenever an excise-officer makes any arrest, seizure or search under this Act, he shall, within twenty-four hours thereafter, make a full report of all the particulars of the same to his official superior, and unless acting under the warrant of the Collector, shall carry the person arrested, or the article seized, with all convenient despatch, to a Magistrate, or, if the arrest, seizure or search has been made in the town of Calcutta, to a Presidency Magistrate.

Report of  
arrest, seizure  
or search,  
and taking  
of person  
arrested to  
Magistrate

45 Whenever any police-officer in the town of Calcutta makes any arrest, seizure or search under this Act, he shall, within twenty-four hours thereafter, make a full report of all the particulars to the Commissioner of Police, and shall carry the person arrested, or the article seized, with all convenient despatch, to a Presidency Magistrate;

Similar action  
in Calcutta

## THE BENGAL EXCISE AND LICENSING ACT, 1878 [Ben. Act 7]

## (Part VII—Powers of Officers.—Secs 46-51)

Report to  
Collector  
when arrest or  
seizure made  
in Calcutta

Power to  
authorise  
arrest in case  
of unlawful  
sale or posses-  
sion

Power to  
issue search  
warrant

Procedure of  
Collector  
after arrest  
or seizure.

Issue of  
summons

Seizure and  
disposal of  
exciseable  
articles un-  
lawfully sold

Search for  
articles con-  
cealed in  
zanánas

and the Commissioner of Police shall at once inform the Collector of the fact of the arrest or seizure and of the circumstances of the case

46 The Collector may issue his warrant for the arrest of any person whom he may have reason to believe, either from information in writing or from the proceedings in any other case, to be engaged in the unlawful sale of exciseable articles, or to have in his possession any such articles liable to confiscation under section 75

47 The Collector may issue his warrant for the search of any house, boat or other place in which he may have reason to believe that exciseable articles are unlawfully manufactured, or that any such articles liable to confiscation under this Act are kept or concealed

Such warrant may be executed by any officer, not being under the rank of a corporal or head-constable, in the manner prescribed in section 40

48. Whenever, any person is arrested, or any articles are seized under the warrant of a Collector, the Collector, after such inquiry as he thinks necessary, shall send the person arrested, or the article seized, to a Magistrate, or, if the arrest or seizure has been made in the town of Calcutta, to a Presidency Magistrate, or shall order the immediate discharge of such person, or the release of such articles

49 Every such Magistrate shall issue a summons requiring the attendance of the person accused, in all cases other than those of persons sent in custody by a Collector or excise officer

50 Any exciseable articles sold in contravention of the provisions of this Act, or in breach of any of the conditions of a license granted under this Act, may be seized at the time of the sale and brought before every such Magistrate.

As soon as the case is adjudicated, they shall be restored to the person who may have purchased them, or disposed of as the Magistrate may direct.

51 Where there is ground to suspect that exciseable articles are unlawfully concealed in any zanáná, the officer charged with the execution of a warrant shall \* \* \* [1] follow the provisions of sections 384, 385 and 386 of the Code of Criminal Procedure[2] \* \* \* [3]

10 of 1872

[1] The words "except in the town of Calcutta," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903) are omitted

[2] Act 10 of 1872 was repealed by Act 10 of 1882 (the Code of Criminal Procedure, 1882), and Act 10 of 1882 has been repealed by the Code of Criminal Procedure, 1898 (Act 5 of 1898), and the reference in the text to ss 384 to 386 of the Act of 1872 should now be taken to be made to ss. 43 (proviso) 103 and 52, respectively, of the said Code of Criminal Procedure, 1898—see s 3 (1) of the latter Act, in General Acts, 1891-98, Ed 1899, p 382

[3] The words and figures "and, in the said town, the provisions of sections 164, 165 and 166 of the Presidency Magistrates' Act," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted

of 1878] THE BENGAL EXCISE AND LICENSING ACT, 1878

(Part VII—Powers of Officers—Part VIII—Penalties—Secs 52-57)

52 All police officers are required to aid excise-officers in the due execution of this Act, upon notice given or request made by such officers

Police officers  
to assist  
excise officers

## PART VIII

### PENALTIES

53 Whoever manufactures or sells any exciseable article without a license shall be liable to a fine not exceeding five hundred rupees for every such manufacture or sale

Unlicensed  
manufacture  
or sale of  
exciseable  
article

[1] [Nothing contained in the first clause of this section or in section 11 applies to the arrangements under which tarr is supplied to licensed retail vendors, or to the sale of tarr or of any preparation of the same, when supplied or used for the manufacture of gur or molasses,]

or to the sale of any imported spirituous or fermented liquors purchased by any person for his private use, and so disposed of upon such person quitting a station or after his decease

54 Whoever, without a license from the Collector, cultivates plants from which intoxicating drugs are produced, or in any way promotes such illegal cultivation, shall be liable to a fine not exceeding five hundred rupees, and the plants so cultivated shall be liable to seizure and confiscation

Unlicensed  
cultivation of  
plants produc-  
ing intoxicat-  
ing drugs

55 Whoever constructs or works a distillery after the European method, or a brewery, without a license from the Collector, shall be liable for every such offence to a fine not exceeding one thousand rupees,

Unlicensed  
construction  
or working of  
distillery or  
brewery

and all liquors manufactured at any such distillery or brewery, and all materials and implements collected for the purpose of such manufacture, shall be liable to confiscation.

56. Every proprietor or manager of a licensed distillery constructed and worked after the European method, or of a brewery, who wilfully contravenes any rule made by the Board under section 8, shall be liable for every such offence to a fine not exceeding two hundred rupees

Contravention  
of rules as to  
European dis-  
tilleries or as  
to breweries

57. Whoever removes, or attempts to remove, from any licensed distillery constructed and worked after the European method, or from any brewery, any spirituous or fermented liquors upon which the duty has not been paid, or for the duty on which a bond has not been executed, or any such liquors for which

Unlawful re-  
moval of spirit-  
uous or fer-  
mented liquors  
from European  
distillery or  
from brewery

[1] The words in square brackets in s 53 were substituted for the original words by the Bengal Excise (Amendment) Act, 1883 (Ben Act 1 of 1883), s 10, *post*, p 516

## THE BENGAL EXCISE AND LICENSING ACT, 1878 [Ben. Act 7]

*(Part VIII—Penalties—Secs 58-61)*

the Collector has not issued a pass, or exceeding the quantity for which a pass has been issued, shall be liable for every such offence to a fine not exceeding one thousand rupees

Unlawful removal of spirituous liquors from native distillery, etc

58 Whoever removes, or attempts to remove, any spirituous liquors, from a distillery established under section 9, without a pass, or exceeding the quantity for which a pass has been issued,

or introduces, or attempts to introduce, \* \* [1] any spirituous liquors manufactured at another place into the limits fixed for the consumption of such liquors manufactured at such distillery, without a special pass from the Collector,

[2] [shall be liable for every such offence (the provisions of section 17 notwithstanding) to a fine not exceeding five hundred rupees]

Failure to produce license, or breach of license or of rule made under section 10

59 Every manufacturer or vendor under this Act who fails to produce his license on the demand of any excise-officer,

or who commits any act in breach of any of the conditions of his license not otherwise provided for in this Act,

or who wilfully contravenes any rule made by the Board under section 10, otherwise than as provided in the last preceding section,

shall be liable for every such offence to a fine not exceeding fifty rupees,

and such fine shall be recoverable from such manufacturer or vendor, notwithstanding that such breach may have been owing to the default or carelessness of the servant or other persons employed by him.

Retail vendor selling by wholesale, or wholesale vendor selling by retail.

60 Every licensed retail vendor who sells by wholesale, and every licensed wholesale vendor who makes a retail sale, shall be liable for every such offence to a fine not exceeding two hundred rupees

Nothing contained in the first clause of this section shall be held to prohibit the grant to the same person of both wholesale and retail licenses, subject to the provisions of this Act,

[3] [or shall be held to apply to the sale by licensed wholesale vendors of such small quantities of beer, wines or spirits as may appeal to the Collector to be used only as samples.]

Unlawful possession of excess

61 Any person, other than a licensed manufacturer or vendor, or a person duly authorized to supply licensed vendors, having in his possession any

[1] The words "for sale," in s 58, which were repealed by the Bengal Excise Act Amendment Act, 1881 (Ben. Act 4 of 1881), s 7, are omitted.

[2] The words in square brackets in s 58 were substituted for the words "shall be liable for every such offence to a fine not exceeding five hundred rupees" by s 7 of the same Act, *post*, p 514

[3] The words in square brackets in s. 60 were added by the Bengal Excise (Amendment) Act, 1883 (Ben. Act 1 of 1883), s. 11, *post*, p. 616.

## of 1878 ] THE BENGAL EXCISE AND LICENSING ACT, 1878

## (Part VIII —Penalties—Secs 61A-63)

greater quantity of any excisable article or any preparation or admixture of the same, than the quantity specified for each article in section 15, [1] [or than the quantity which may be fixed by the Board under the said section as the limit for a retail sale of any such article], without a pass from the Collector or other officer duly empowered in that behalf, shall be liable to a fine not exceeding five hundred rupees

quantity of  
any excisable  
article

[2] Nothing contained in the first clause of this section, or in section 17, applies to any spirituous or fermented liquors imported by sea, [which are in the possession of any common carrier or warehouseman as such or] which any person may have in his possession for his private use and consumption and not for sale [3]

[4] 61A Any person who, in contravention of any notification issued under section 17A, is found in possession of any foreign excisable article, or of a larger quantity of any such article than is permitted under such notification, shall be liable to a fine not exceeding five hundred rupees

Unlawful  
possession of  
foreign excise-  
able article

62 The provisions of section 61, so far as they relate to the possession of fermented liquors, do not apply to the possession of *táí* when supplied or used for the manufacture of *gun* or molasses,

Section 61  
not to apply  
to the posses-  
sion of *táí*  
or intoxicat-  
ing drugs in  
certain cases

and the provisions of the said section, so far as they relate to the possession of intoxicating drugs, do not apply to the possession of such drugs by any person duly authorized under this Act to cultivate the plants which produce these drugs

63 But every such cultivator selling or parting with any such plant, or any preparation thereof, to any person other than a licensed vendor or person duly authorized to purchase the same by pass or license from the Collector, or failing to account for any quantity of such plant, or of any preparation thereof, which has been in his possession, shall be liable to a fine not exceeding five hundred rupees.

Transfer by  
cultivator to  
unlicensed  
person, or  
failure to  
account for  
stock

64 [Penalty for possession, without a pass from the Collector, of spirituous

[1] These words in square brackets in s 61 were inserted by the Bengal Excise (Amendment) Act, 1883 (Ben Act 1 of 1883), s 12, *post* p 516

[2] This clause of s 61 (except the words in square brackets) was substituted for the words "Nothing contained in the first clause of this section, or in section 17, applies to any imported excisable article purchased by any person for his private use or consumption and not for sale" by the Bengal Excise Act Amendment Act, 1881 (Ben. Act 4 of 1881), s. 8, *post*, p. 514. The words in square brackets were inserted in the clause by the Bengal Excise (Amendment) Act, 1883 (Ben Act 1 of 1883), s 12, as amended by the Amending Act, 1897 (5 of 1897), Sch. 2, printed *ante*, p. 16.

[3] For further exemptions, *see* s. 62 of this Act

[4] S 61A was inserted by the Bengal Excise Act Amendment Act, 1881 (Ben Act 4 of 1881), s. 9, *post*, p 514.

THE BENGAL EXCISE AND LICENSING ACT, 1878 [Ben Act 7  
(Part VIII—Penalties—Secs 65-70)]

*liquors manufactured at any place in India beyond the limits of British India* ]  
*Rep by the Bengal Excise Act Amendment Act, 1881 (Ben Act 4 of 1881)*

Conniving at  
unlawful  
manufacture  
or sale of,  
exciseable  
article

65 Every proprietor, farmer, tahsildar, gumashta or other manager of land, who authorizes or connives at the manufacture or sale of any exciseable articles by any unlicensed person, shall be liable for every such offence to a fine not exceeding five hundred rupees

Chemist,  
etc, allowing  
liquor to be  
drunk on his  
premises, etc

66 Any chemist, druggist, apothecary or keeper of a dispensary within the town or the suburbs of Calcutta, or in Howrah, who shall, between sunset and sunrise, allow spirituous or fermented liquors, which have not been *bonâ fide* medicated, to be drunk on his business premises by any person not employed in his business,

and any such person who shall between sunset and sunrise drink such liquors on such premises,

shall be liable to a fine not exceeding two hundred rupees, in addition to any other penalty to which he may be liable under this or any other Act

Permitting  
drunkenness  
etc, in shop

67 Every licensed vendor who permits drunkenness, riot or gaming in his shop [1] [or permits two or more persons who have been convicted of any non-bailable offence, or who are reputed prostitutes, to assemble in his shop, whether for the purpose of crime or prostitution or not,] or receives any wearing-apparel or other effects in barter for any exciseable article, shall be liable for every such offence to a fine not exceeding two hundred rupees

Police officer  
failing to as-  
sist excise  
officer

68 Any police-officer who, without lawful excuse, neglects or refuses to assist an excise-officer on being required to do so, shall be liable to a fine not exceeding five hundred rupees

Vexatious  
entry, search,  
seizure or ar-  
rest

69 Any excise-officer who, without reasonable ground of suspicion, enters or searches, or causes to be entered or searched, any house, boat or other place, or vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for any exciseable article liable to confiscation under this Act,

or vexatiously and unnecessarily detains, searches or arrests any person, shall be liable for every such offence to a fine not exceeding five hundred rupees.

Conniving at  
unlawful  
manufacture  
or sale

70 Any excise-officer who connives at the unlawful manufacture or sale of exciseable articles,

and any officer invested with local jurisdiction who authorizes or connives

[1] These words in square brackets in s. 67 were inserted by the Bengal Excise and Licensing (Amendment) Act, 1903 (Ben. Act 2 of 1903), s. 9, printed *post*, p. 520



of 1878] THE BENGAL EXCISE AND LICENSING ACT, 1878

(Part VIII—Penalties—Secs 71-75)

at the establishment of any unlicensed shop for the sale of such articles in any place subject to his control,

shall be liable for every such offence to a fine not exceeding five hundred rupees

71 Any excise or police-officer who neglects to report the particulars of an arrest, seizure or search within twenty four hours thereafter, or delays carrying to a Magistrate or to the Collector, as the case may be, any person arrested, or any illicit articles seized under this Act,

Delay in reporting arrest, seizure or search or in bringing up person arrested

shall be liable for every such offence to a fine not exceeding two hundred rupees

72 All fines prescribed for offences against the provisions of this Act, and all seizures of goods liable to confiscation under this Act, shall be adjudged by a Magistrate, and, in the town of Calcutta, by a Presidency Magistrate,

Adjudication of fines and seizures limitation

but no proceedings shall be taken by any such Magistrate after the expiration of six calendar months from the date of the commission of the offence

All such fines and seizures shall be adjudged on the information of the Collector or any excise-officer, but such information shall not be necessary in the case of a complaint preferred under any of the five last preceding sections

73 The Collector, in respect of the duties to be performed by him under this Act, may punish any contempt committed in his presence in open Court by fine not exceeding two hundred rupees

Fine for contempt of Court

74 Whenever any person is convicted of an offence against the provisions of this Act, punishable with a fine of two hundred rupees or upwards, after having been previously convicted of a like offence, he shall be liable, in addition to the penalty attached to such offence, to imprisonment for a period not exceeding six months,

Punishment on second or subsequent conviction.

and a like punishment of imprisonment, not exceeding six months, shall be incurred, in addition to the punishment which may be inflicted for a first offence, upon every subsequent conviction after the second

Imprisonment under this Act may be either simple or rigorous as the Magistrate or Presidency Magistrate may direct

Kind of imprisonment.

75. Any excisable article manufactured, or held in possession, in contravention of the provisions of this Act, and all the materials used, or intended to be used, in the manufacture of the same, [1] [shall be liable to seizure by an officer duly empowered in that behalf, and to confiscation]. [2]

Seizure and confiscation of excisable articles.

[1] The words in square brackets in s. 75 were substituted for the words "shall be liable to seizure and confiscation by an officer duly empowered in that behalf" by the Bengal Excise Act Amendment Act, 1881 (Ben. Act 4 of 1881) s. 10, *post*, p. 514.

[2] As to what officers may confiscate, see ss. 38 to 42 and 46, *ante*.

THE BENGAL EXCISE AND LICENSING ACT, 1878 [Ben Act 7  
(Part VIII—Penalties—Part IX—Military Cantonments—Secs 76 80)

When any articles liable to confiscation under this Act are seized, the vessels, packages and coverings in which they are contained, and the animals and conveyances used in carrying them, shall also be liable to seizure and confiscation

Disposal of  
confiscated  
articles

76 All confiscated articles shall be made over to the Collector for sale or disposal under such rules as the Board may prescribe

Division of  
fine among  
persons  
instrumental  
in detection  
of offence

77. Whenever any fine is levied under this Act from a person convicted of the unlawful manufacture, sale, purchase or possession of any exciseable article,

or of the unlawful cultivation of plants from which intoxicating drugs are produced,

the Magistrate shall inform the Collector of such levy, and the Collector may, under such rules as the Board may prescribe, direct the amount of such fine to be divided, in such proportions as he may think fit, among any persons who were instrumental in the detection of the offence, the seizure of the articles in respect of which the offence was committed, or the capture of the offender

Compensa-  
tion

and may award compensation thereout to any persons subjected to annoyance or injury by any proceedings under this Act

Power of  
Board to  
grant  
rewards.

78. The Board may, either before or after the adjudication of a case, grant such reward, not exceeding two hundred rupees, as to them may seem fit,

and may direct the same to be divided, in such proportions as they may think fit, between any persons who were instrumental in the detection of the offence, the seizure of the articles in respect of which the offence was committed, or the capture of the offender.

Rewards to  
informers,  
and compen-  
sation.

79 The Board may appropriate any portion, not exceeding one-half, of the fines levied under this Act, the disposal of which is not specially provided for, for rewarding informers, or for compensating persons subjected to annoyance or injury by any proceedings under this Act.

## PART IX.

### MILITARY CANTONMENTS.

Manufacture  
and sale of  
exciseable

80. Within the limits of any military cantonment, and within a distance of two miles, or such other distance as the Local Government may in any

of 1878.] THE BENGAL EXCISE AND LICENSING ACT, 1878

(Part IX—Military Cantonments—Part X—Miscellaneous—Secs 81-84)

case prescribe, from such limits, licenses for the manufacture and sale of excisable articles shall not be granted, nor shall the duties leviable thereon be let in farm, otherwise than with the consent of the Commanding Officer, and, upon the requisition of such officer, any license which has been granted, either by the Collector or by a farmer, within such limits or distance, shall be immediately withdrawn

articles in  
cantonments.

81 In all other respects the provisions of this Act shall have effect within such limits and distance as aforesaid

Application  
of Act to  
cantonments

\* \* \* \* \*

\* [1]

## PART X

### MISCELLANEOUS.

[2] 82. The Local Government may, by notification in the Calcutta Gazette, within any specified tract of country, exempt any excisable article or foreign excisable article from all or any of the provisions of this Act, and may, from time to time, by a like notification, cancel such exemption

Power to  
exempt excise-  
able articles  
from provi-  
sions of Act

83 An appeal shall lie to the Commissioner against every order of a Collector under this Act, if presented to the Commissioner, or to the Collector for transmission to the Commissioner, within thirty days from the date of the order appealed against

Appeals

An appeal shall lie to the Board against every order of a Commissioner under this Act, if presented to the Board within sixty days from the date of the order appealed against :

Provided that it shall be discretionary with the Board to receive appeals direct from orders passed by a Collector.

84. Notwithstanding anything contained in this or in any other Act, the Local Government may, with the sanction of the Governor General in Council, assign to the Corporation of the town of Calcutta, or to any other

Local Govern-  
ment may  
assign to any  
municipality  
powers as to  
granting of  
licenses

[1] The proviso to s 81, which was repealed by the Cantonments Act, 1889 (13 of 1889), is omitted. The proviso ran as follows —

“ Provided that, when arrest or search is to be made within the limits of any cantonment, the Collector or other officer authorized to make arrest or search shall, whenever it may be practicable, give previous notice to the Commanding Officer, and in all other cases shall report the arrest or search to such Commanding Officer with as little delay as possible ”

[2] This section was substituted for the original s 82 by the Bengal Excise Act Amendment Act, 1881 (B.n. Act 4 of 1881), s 11, *post*, p 514. The original section ran thus —

“ The Local Government may, within any specified district or tract of country, exempt any liquor from the provisions of this Act ”

## THE BENGAL EXCISE AND LICENSING ACT, 1878 [Ben Act 7 of 1878]

(Part X—Miscellaneous—Sec 85—Schedule—Part I)

Municipality, such functions and powers as it shall think fit in respect to the granting, withholding and withdrawal of licenses for the sale of exciseable articles (being functions and powers which, but for such assignment, might legally be exercised by any officer of Government), to be exercised by such Corporation or by such Municipality within the limits of their respective jurisdictions under such conditions and subject to such rules as the Local Government may impose, and the Local Government may at any time withdraw and revoke any functions and powers which it has assigned under this section

Provided that such functions and powers shall not be assigned as aforesaid without the consent of the said Corporation or the Municipality concerned

Provided also that no such conditions or rules shall be imposed by the Local Government after such assignment has taken place, without the consent of the said Corporation or the Municipality concerned

85 Nothing contained in this Act shall be held to affect the provisions of Act 22 of 1864 (*an Act to make provision for the Administration of Military Cantonments*) [1] or of the Sea Customs Act, 1878, [2] or of Bengal Acts 2 [3] and 4 [4] of 1866

8 of 1878

Saving of  
certain  
other Acts

## SCHEDULE

(See section 3)

## PART I—ACTS OF THE GOVERNOR GENERAL IN COUNCIL

Number and year,	Subject	Extent of repeal
Act 11 of 1849	For securing the Abkari revenue of Calcutta	So much as has not been repealed
Act 21 of 1856	To consolidate and amend the Abkari law in Bengal	So much as has not been repealed

[1] Act 22 of 1864 was repealed and re-enacted by the Cantonments Act, 1880 (3 of 1880) and the latter Act was repealed and re-enacted by the Cantonments Act, 1889 (13 of 1889). The reference in the text should now be construed to refer to the Cantonments Act, 1889—see s. 2 (3) of that Act, in General Acts, 1885-90, Ed. 1898, p. 338.

[2] Printed in the General Acts, 1877-81, Ed. 1898, p. 148.

[3] The Calcutta Suburban Police Act, 1866. It is printed in Vol. IV of this Code.

[4] The Calcutta Police Act, 1866. It is printed in Vol. IV of this Code.

[Ben. Act 7 of 1878] THE BENGAL EXCISE AND LICENSING ACT, 1878  
(Schedule.—Part II)

[Ben. Act 4 of 1881] THE BENGAL EXCISE ACT AMENDMENT ACT, 1881  
(Sec 1)

PART II—ACTS OF THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL

Number and year	Subject	Extent of repeal
Act 3 of 1873	To amend Act 11 of 1849 and Act 21 of 1856	The whole
Act 1 of 1874 [1]	To amend Act 21 of 1856 and Bengal Act 2 of 1866	So far as it relates to Act 21 of 1856
Act 2 of 1876	To amend Act 11 of 1849, Act 21 of 1856 and Bengal Act 4 of 1866	So much as has not been repealed, except section 12 [1]

THE BENGAL EXCISE ACT AMENDMENT ACT, 1881  
(BENGAL ACT 4 OF 1881) [2]

[8th June, 1881]

An Act to amend the Bengal Excise Act, 1878

Ben. Act 7 of 1878.

WHEREAS it is expedient to amend the Bengal Excise Act, 1878, It is enacted as follows — Preamble

1 This Act may be called the Bengal Excise Act Amendment<sup>2</sup> Act, 1881

Short title

It shall be read with, and taken as part of, the Bengal Excise Act, 1878

Construction

[Commencement] *Rep by the Repealing and Amending Act, 1897 (5 of 1897)*

[1] Printed in Vol IV of this Code

[2] LEGISLATIVE PAPERS —For Statement of Objects and Reasons, *see* Calcutta Gazette, 1881, Pt IV, p 18, and for Proceedings in Council, *see ibid*, Supplement, 1881, pp 189, 205, 259 and 291

LOCAL EXTENT —Since this Act is (*see* s 1) to be “read with and taken as part of” Bengal Act 7 of 1878, its local extent is the same as that of the latter Act, as to which *see* foot note [1] on p. 490, *ante*

The Act has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s 3, to be in force in the following Scheduled Districts, namely —

the Hazaribagh, Ranchi, Palamau and Manbhum Districts, and Pargana Dhalbhum and the Kolhan in the Singhbhum District, in the Chota Nagpur Division—*see* Vol V, Part V B (b)

The Act is in force in the following de regulationised tracts, namely —

in the Sonthal Parganas—*see* Vol. V, Part V B (c) and

in the Angul District by virtue of the Angul District Pegaulation, 1894 (1 of 1894), s 3 (1) *ante*, p 257,

but its application in the other de regulationised tracts in Bengal, namely, the Chittagong Hill-tracts, is barred by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s 4 (2) *ante*, p 282

## THE BENGAL EXCISE ACT AMENDMENT ACT, 1881 [Ben Act 4 of 1881.]

(Secs 3-11)

2 [*Repeal of section 64 of Bengal Act 7 of 1878*] *Rep by the Repealing and Amending Act, 1897 (5 of 1897)*

Amendment  
of section 4

3 In section 4, after the definition of "exciseable article" the following shall be inserted, namely —

[Printed *ante*, p 492]

Amendment  
of section 9

4 In the last clause of section 9, for the words "and permit the manufacture of such liquors in distilleries established under section 7," the following shall be substituted —

[Printed *ante*, p 494]

Introduction  
of new section  
after section  
17

5 After section 17 the following section shall be inserted, namely —

17A [Printed *ante*, p 496]

Amendment  
of section 19

6 In section 19, after the words "beyond the limits of British India" shall be inserted the words "or at any place in British India in which no duty of excise is levied upon its manufacture"

Amendment  
of section 58

7. In section 58, the words "for sale" shall be omitted, and for the last clause of the section the following words shall be substituted, namely — "shall be liable for every such offence (the provisions of section 17 notwithstanding) to a fine not exceeding five hundred rupees"

Amendment  
of section 61

8. For the second clause of section 61 the following shall be substituted —

[Printed *ante*, p 507]

Introduction  
of new section  
after section  
61

9 After section 61 the following section shall be inserted, namely —

61A [Printed *ante*, p 507]

Amendment  
of section 75

10 In the first clause of section 75, for the words "shall be liable to seizure and confiscation by an officer duly empowered in that behalf" the following shall be substituted, namely — "shall be liable to seizure by an officer duly empowered in that behalf, and to confiscation"

Amendment  
of section 82.

11 For section 82 the following section shall be substituted, namely —

82 [Printed *ante*, p. 511]

[Ben Act 1 of 1883] THE BENGAL EXCISE (AMENDMENT) ACT, 1883  
(Secs 1-7)

THE BENGAL EXCISE (AMENDMENT) ACT, 1883 [1]  
(BENGAL ACT 1 OF 1883)

[14th March, 1883]

An Act to amend the Bengal Excise Act, 1878

Ben Act 7 of  
1878

WHEREAS it is expedient to amend the Bengal Excise Act, 1878, It is Preamble  
enacted as follows —

1 This Act shall be read with, and taken as part of, the Bengal Excise Construction  
Act, 1878, as amended by Bengal Act 4 of 1881 of Act

2. In section 4 of the Bengal Excise Act, 1878, the following defini- New defini-  
tions shall be inserted, that is to say — tions

[Printed *ante*, p 493]

3 After section 10 of the said Act the following section shall be inserted, New section  
that is to say — 10A

10A. [Printed *ante*, p 494]

4. For the first three paragraphs of section 15 of the said Act the follow- Amendment  
ing shall be substituted, that is to say — of section 15

[Printed *ante*, p 495]

5 For section 17 of the said Act the following section shall be substi- New section  
tuted, that is to say — 17

[Printed *ante*, p. 496]

6 After section 19 of the said Act the following section shall be in- New section  
serted, that is to say — 19A

19A. [Printed *ante*, p 497]

7 In section 26 of the said Act the words “ if required by the Collector Amendment  
to do so ” shall be inserted after the words “ tenor of the license ” of section 26

[1] SHORT TITLE — This short title was given by the Repealing and Amending Act, 1903  
(1 of 1903), printed *ante*, p 18

LEGISLATIVE PAPERS — For Statement of Objects and Reasons, *see* Calcutta Gazette, 1882,  
Pt IV, p 30, for further Report of Select Committee, *see ibid*, p 31, and for Proceedings  
in Council, *see ibid* Supplement, 1882, pp 309, 330, Supplement, 1883, pp 23 and 89

LOCAL EXTENT — Since this Act is (*see* section 1) to be “ read with and taken as part of ”  
Bengal Act 7 of 1878, its local extent is the same as that of the latter Act, as to which *see*  
foot note [1] on p 490, *ante*

The Act is in force in the following de-regulationised tracts, namely —

in the Sonthal Parganas—*see* Vol. V, Part VI B (c), and

in the Angul District, by virtue of the Angul District Regulation, 1894 (1 of 1894), s. 3 (1)  
*ante*, p 257,

but its application in the other de-regulationised tracts in Bengal, namely, the Chitta-  
gong Hill tracts, is barred by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2),  
*ante*, p. 282

## THE BENGAL EXCISE (AMENDMENT) ACT, 1893 [Ben. Act 1 of 1893.]

(Secs 8-12)

Amendment  
of section 29

8 In section 29, paragraph 3, of the said Act, the words "in writing" shall be inserted after the words "previous notice"

In the same paragraph of the same section, the word "such" shall be inserted after the words "or if" and before the word "notice"

Amendment  
of section 30

9 In section 30 of the said Act the words "in writing" shall be inserted after the word "notice"

Amendment  
of section 53.

10 For the second and third paragraphs of section 53 of the said Act the following shall be substituted, that is to say —

[Printed *ante*, p 505]

Amendment  
of section 60

11 To section 60 of the said Act the following words shall be added, that is to say —

[Printed *ante*, p 506]

Amendment  
of section 61

12 In the first paragraph of section 61 of the said Act the following words shall be inserted after the word "fifteen," that is to say —

[Printed *ante*, p 507]

[1] [In the second paragraph of the same section, as amended by Bengal Act 4 of 1881, section 8, the following words shall be inserted after the word "sea," that is to say, "which are in the possession of any common carrier or warehouseman as such or."]

13 [Commencement of Act] *Rep by the Repealing and Amending Act, 1903 (1 of 1903)*

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[1] These words in square brackets in s 12 were substituted for the original words by the Amending Act, 1897 (5 of 1897), Sec 2, *ante*, p 16



[Act 9 of 1885] THE EXCISE AND SEA CUSTOMS LAW AMENDMENT  
ACT, 1885

(Sec 3)

THE EXCISE AND SEA CUSTOMS LAW AMENDMENT  
ACT, 1885 [1]  
(ACT 9 OF 1885)

[29th May, 1885]

An Act \* \* \* [2] to amend \* \* \* [3] the  
Bengal Excise Act, 1878 [4] and the Sea Customs Act,  
1878 [5]

WHEREAS it is expedient \* \* \* [2] to amend  
Ben Act 7 of 1878 \* \* \* [6] section 18 of the Bengal Excise Act,  
8 of 1878 1878, and sections 145, 149 and 207 of the Sea Customs Act, 1878, [5] in  
manner hereinafter appearing, It is hereby enacted as follows —

1. [Repeal of part of section 6 of Act 11 of 1882] *Rep. by the Repealing  
and Amending Act, 1891 (12 of 1891)*

2. [Amendment of section 7 of Act 22 of 1881] *Rep. by the Excise  
Act, 1896 (12 of 1896)*

3 In section 18 of the Bengal Excise Act, 1878, [4] for the words “at  
the rate leviable under any Tariff Act for the time being in force” the words  
“at such rate as the Local Government may from time to time fix in respect  
of such spirituous liquor” shall be substituted, but nothing in this section  
shall affect any Act passed after this Act comes into force by the Lieutenant-  
Governor of Bengal in Council

Ben Act 7 of 1878 Amendment of section 18 of Bengal Act 7 of 1878.

[1] SHORT TITLE — This short title was given by the Indian Short Titles Act, 1897 (14 of 1897), printed in General Acts, 1891 98, Ed 1899, p 331

LEGISLATIVE PAPERS — For Statement of Objects and Reasons, *see* Gazette of India, 1884, Pt V, p 599, and for Proceedings in Council, *see ibid* Supplement, 1884, pp 1651 and 1710, Supplement, 1885, p 837.

LOCAL EXTENT — The local extent of s. 4 of this Act is the same as that of Ben Act 7 of 1878, as to which *see* foot-note [1] *ante*, p 490

This Act is in force in the following de regulationised tracts, namely —

in the Sonthal Parganas—*see* Vol V, Part VI B (c), and

in the Angul District, by virtue of the Angul District Regulation, 1894 (1 of 1894), s 3 (1), *ante*, p 257,

but its application in the other de regulationised tracts in Bengal, namely, in the Chittagong Hill tracts, is barred by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s 4 (2), *ante*, p 282

[2] The words and figures “to repeal part of section 6 of the Indian Tariff Act, 1882, and” in the title and preamble, which were repealed by the Repealing and Amending Act, 1891 (12 of 1891), are omitted

[3] The words and figures “the Excise Act, 1881,” in the title, are omitted as having been repealed by the Excise Act, 1896 (12 of 1896).

[4] Printed *ante*, p 490

[5] Printed in the General Acts, 1877 81, Ed 1893, p 168.

[6] The words and figures “section 7 of the Excise Act, 1881,” in the preamble, are omitted as having been repealed by the Excise Act, 1896 (12 of 1896).

THE EXCISE AND SEA CUSTOMS LAW AMENDMENT [ Act 9 of 1885 ]  
ACT, 1885

(Secs 5, 6)

THE EXCISE (MALT-LIQUORS) ACT, 1890 [Act 13 of 1890]

(Secs 16)

4 [Saving of duties already fixed under section 6 of Act 11 of 1882] Rep  
by the Repealing and Amending Act, 1903 (1 of 1903)

5, 6. [Amendment of sections 145, 149 and 207 of Act 8 of 1878]  
Printed in the General Acts, 1885-90, Ed 1898, p. 5

THE EXCISE (MALT-LIQUORS) ACT, 1890

(ACT 13 OF 1890). [1]

[28th March, 1890]

An Act to amend *the Excise Act, 1881*,<sup>[2]</sup> and the Bengal Excise  
Act, 1878,<sup>[3]</sup> and to apply to Malt Liquor certain provisions  
of the Sea Customs Act, 1878,<sup>[4]</sup> respecting Spirit.

WHEREAS it is expedient to amend *the Excise Act, 1881*,<sup>[2]</sup> and the 22 of 1881  
Bengal Excise Act, 1878,<sup>[3]</sup> and to apply to malt liquor certain provisions of Ben Act 7 of  
the Sea Customs Act, 1878,<sup>[4]</sup> respecting spirit, It is hereby enacted as 1878  
follows — 8 of 1878

title and  
commence-  
ment.

- 1 (1) This Act may be called the Excise (Malt Liquors) Act, 1890, and
- (2) It shall come into force at once

*Excise Act, 1881*

2 to 5 [Amendment of *the Excise Act, 1881* (22 of 1881)] Rep by  
*the Excise Act, 1896* (12 of 1896)

*Bengal Excise Act, 1878*

Amendment  
of section 18,

6. In section 18 [5] of the Bengal Excise Act, 1878, as amended by the Ben Act 7 of  
1878

[1] LEGISLATIVE PAPERS—For Statement of Objects and Reasons, see Gazette of India,  
1890, Pt V, p. 72 and for Proceedings in Council, see *ibid*, Pt VI, pp 31 68 and 75

LOCAL EXTENT—The local extent of sections 6 to 8 of this Act is the same as that of Ben  
Act 7 of 1878, as to which see foot note [1] *ante*, p. 490

The Act is in force in the following de regulationised tracts, namely:—

the Argul District—see Vol V, Part VI B(a), and

the Southul Parganas—see *ibid*, Part VI B (c),

but its application in the other de regulationised tracts in Bengal, namely, the Chittagong  
Hill tracts, is barred by the Chittagong Hill tracts Regulation, 1900 (1 of 1900), s 4 (2),  
*ante*, p. 282

[2] Ss 2 to 5, which alone referred to the Excise Act, 1881, were repealed by the Excise Act,  
1896 (12 of 1896).

[3] Printed *ante*, p. 490.

[4] Printed in the General Acts, 1877-81, Ed 1898, p. 168.

[5] Printed *ante*, p. 496.

[Act 13 of 1890] THE EXCISE (MALT LIQUORS) ACT, 1890

(Secs 7-9)

[Ben Act 2 of 1903] THE BENGAL EXCISE AND LICENSING (AMENDMENT) ACT, 1903

(Sec 1)

Act of the Governor General in Council No 9 of 1885, [1] the words "or fermented" shall be inserted after the word "spirituous," wherever that word occurs, and the words "or brewery" after the word "distillery."

Bengal Act  
7 of 1878

7 In section 19 [2] of the said Act as amended by the Act of the Lieutenant-Governor of Bengal in Council No. 4 of 1881, [3] the words "or fermented" shall be inserted after the word "spirituous" in both the places where that word occurs

Amendment  
of section 19,  
Bengal Act  
7, 1878

8 Nothing in either of the two last foregoing sections shall affect any Act passed by the Lieutenant-Governor of Bengal in Council after the commencement of this Act.

Effect of two  
last fore-  
going sec-  
tions on  
legislative  
authority of  
Bengal  
Council

*Drawback of Excise-duty on Export of Malt Liquor*

9 [Application of provisions of section 150, Act 8, 1878, to malt liquor] Printed in the General Acts, 1885-90, B 1898, p 469

## THE BENGAL EXCISE AND LICENSING (AMENDMENT) ACT, 1903

(BENGAL ACT 2 OF 1903) [4]

[18th March, 1903]

### An Act to amend the Bengal Excise Act, 1878

Ben Act 7  
of 1878

WHEREAS it is expedient to amend the Bengal Excise Act, 1878, in manner hereinafter appearing,

It is hereby enacted as follows:—

1 This Act may be cited as the Bengal Excise and Licensing (Amendment) Act, 1903.

Short title

[1] Printed *ante*, p 517

[2] Printed *ante*, p 497

[3] Printed *ante*, p 513

[4] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, *see* Calcutta Gazette, 1903, Pt. IV, p 1, and for Proceedings in Council, *see ibid*, Pt IV A, pp 1 and 17

LOCAL EXTENT.—The local extent of this Act is the same as that of Ben Act 7 of 1878, as to which *see* foot note [1] on p 490, *ante*

The Act is in force in the following de regulationised tracts, namely —

in the Angul District by virtue of the Angul District Regulation, 1894 (1 of 1894), s. 3 (1) *ante*, p 257, and

in the Southal Parganas,—*see* Vol V, Part VI B (c),

but its application in the other de regulationised tracts in Bengal, namely, the Chittagong Hill-tracts, is barred by the Chittagong Hill tracts Regulation, 1900 (1 of 1900), s 4 (2), *ante*, p. 282.

THE BENGAL EXCISE AND LICENSING (AMENDMENT) ACT, 1903 [Ben Act 2 of 1903]

(Secs. 2-9.)

Amendment  
of heading

2 In place of the words "*the Excise Revenue*" in the heading of the Bengal Excise Act, 1878, the words "*exciseable articles and the revenue derivable therefrom*" shall be substituted

Amendment  
of preamble

3. In the preamble of the said Act, after the word "articles" the words "to the regulation and licensing of places in which such articles are sold" shall be inserted

Amendment  
of section 1

4 After the word "Excise" in section 1 of the said Act the words "and Licensing" shall be inserted.

Amendment  
of section 11

5. In section 11 of the said Act, after the word "Collector" the words "or otherwise than in accordance with the conditions expressed in such license" shall be inserted.

Amendment  
of section 27

6 In section 27 of the said Act, after the word "direct" in the first line, the words "every license shall be granted for" shall be omitted, and in their place the following words shall be substituted —

"no license granted under this Act shall be transferable by the licensee or shall endure for a longer period than"

Insertion of  
new section  
27A

7 After section 27 of the said Act, the following shall be inserted, namely —

27A [Printed *ante*, p 499]

Amendment  
of section 28

8 After the word "conditions" in section 28 of the said Act, the words "consistent with this Act" shall be inserted, and after the words "under this Act" in the same section the following clause shall be added —

[Printed *ante*, p. 499]

Amendment  
of section 67

9 In section 67 of the said Act, between the word "shop" and the word "or" in the second line, the words "or permits two or more persons who have been convicted of any non-bailable offence, or who are reputed prostitutes, to assemble in his shop, whether for the purposes of crime or prostitution or not" shall be inserted.

# FERRIES.

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## THE BENGAL FERRIES ACT, 1885

(BENGAL ACT I OF 1885)

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[1] This table has been newly added.

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THE BENGAL FERRIES ACT, 1885

(Preliminary — Secs 1-5)

# THE BENGAL FERRIES ACT, 1885

(BENGAL ACT 1 OF 1885) [1]

[27th May, 1885]

## An Act to regulate Ferries in Bengal

WHEREAS it is expedient to regulate ferries within the territories subject to the Lieutenant-Governor of Bengal, It is enacted as follows —

Preamble

### Preliminary

1 This Act may be called the Bengal Ferries Act, 1885

Short title.

2 It shall extend to all the territories subject to the Lieutenant-Governor of Bengal

Extent and commencement of Act.

And it shall come into force on such date [2] as the Lieutenant-Governor may, by notification in the Calcutta Gazette, appoint in this behalf

3 Regulation 6 of 1819 and Bengal Act 1 of 1866 are hereby repealed, but all determinations, declarations, orders and rules made, engagements entered into and securities taken under such Regulation and Act shall be deemed to be respectively made, entered into and taken under this Act

Regulation 6 of 1819 and Ben Act 1 of 1866 repealed

4 Nothing in this Act contained shall apply to any ferry deemed or declared to be a municipal ferry under the provisions of the Bengal Municipal Act, 1884.[3]

Act not to apply to municipal ferries

Ben Act 3 of 1884.

5 In this Act, unless there be something repugnant in the subject or context, —

Interpretation

“ Commissioner,” means the Commissioner of a division

“ Commissioner ”

“ ferry ” includes a bridge of boats, pontoons or rafts, a swing bridge, a flying bridge, a temporary bridge, and a landing stage

“ Ferry ”

“ notification ” means a notification published in the Calcutta Gazette

“ Notification ”

[1] LEGISLATIVE PAPERS — For Statement of Objects and Reasons, see Calcutta Gazette 1885, Pt IV, p 39, and for Proceedings in Council, see *ibid* Supplement, 1885, and pp 546, 553, 657 and 678

LOCAL EXTENT — This Act extends to the whole of Bengal — see s 2

It is in force in the Sonthal Parganas — see Vol V, Part VI B (c), but its application in the other de regulationised tracts in Bengal is varied as follows, namely —

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s 3 (2) *ante*, p 257, and

in the Chittagong Hill tracts, by the Chittagong Hill tracts Regulation, 1900 (1 of 1900), s 4 (2), *ante*, p 282

REPRINT — This Act has been reprinted (by the Legislative Department of the Government of Bengal) as modified by subsequent legislation up to the 1st December, 1903.

[2] The Act came into force on the 1st August, 1885, — see Calcutta Gazette, 24th June, 1885, Pt I, p 610

[3] As to ferries in Municipalities, see ss. 148 to 156 of the Bengal Municipal Act, 1884 (Ben. Act 3 of 1884), in Vol III of this Code.

'Private  
ferries'

"private ferries" includes all ferries other than those declared to be public ferries, or established as such, under section 6 of this Act.

## PART I.

### PUBLIC FERRIES.

Power to  
declare,  
establish,  
define and  
discontinue  
public ferries

6 It shall be lawful for the Lieutenant-Governor from time to time to—

(a) declare what ferries shall be deemed public ferries, and the respective districts in which, for the purposes of this Act, they shall be deemed to be situate,

(b) take possession of a private ferry and declare it to be a public ferry,

(c) establish new public ferries where, in his opinion, they are needed,

(d) define the limits of any public ferry,

(e) change the course of any public ferry, and

(f) discontinue any public ferry which he deems unnecessary

Every such declaration, establishment, definition, change or discontinuance shall be made by notification

Provided that, when any alteration in the course or in the limits of a public ferry is rendered necessary by changes in the river on which such ferry is established, such alteration may be made, by an order in writing, by the Magistrate of the district

Control of  
public ferries  
vested in the  
Magistrate of  
the district  
Superintend  
ence of  
public ferries

7 The control of all public ferries shall be vested in the Magistrate of the district, subject to the direction of the Commissioner

8. The immediate superintendence of every public ferry shall be vested in the Magistrate of the district in which such ferry is situated, or in such other officer as the Lieutenant-Governor may, from time to time, either by name or by official designation, appoint

And such Magistrate or officer shall, except when the tolls at such ferry are leased, make all necessary arrangements for the supply of boats for such ferry, and for the collection of the authorised tolls leviable thereat.

Ferry tolls  
may be leased  
by auction

9. The tolls of any public ferry may, from time to time, be leased by public auction for such term as the Magistrate of the district in which such ferry is situated may, with the approval of the Commissioner, direct.

The Magistrate of the district or the officer authorised by him to conduct such auction may, for sufficient reason to be recorded in writing, refuse to accept the offer of the highest bidder, and may accept any other bid, or may withdraw the tolls from auction.



of 1885 ]

THE BENGAL FERRIES ACT, 1885  
(Part I—Public Ferries—Secs 10-14.)

The lessee of the tolls of every ferry which have been leased under this section shall execute a contract setting forth the conditions on which the tolls of such ferry are to be held, and shall give security for its due fulfilment.

Execution of contract by lessee

10 When the tolls of a public ferry have been duly leased, the lessee and every servant of the lessee shall be deemed to be legally bound to conform to the rules made under this Act for the management and control of such ferry

Lessee of the tolls of a public ferry and his servants bound to conform to rules

11. On the requisition of the Magistrate of the district the person in charge of a public ferry situate in such district shall maintain at one or more places, in addition to the place at which the said public ferry is established, and within two miles therefrom, such number of subsidiary ferries as may seem to the Magistrate to be necessary for the public convenience and all the provisions contained in this Act in regard to the management and control of public ferries shall be deemed applicable to any subsidiary ferry maintained under the requisition of the Magistrate

Provision for the establishment of subsidiary ferry

12. All arrears due by the lessee of the tolls of a public ferry on account of his lease,

Recovery of arrears from lessee

any pecuniary forfeiture for breach of contract inserted in the deed of contract or conditions of sale by public auction, and

all sums due from the lessee on the surrender of his lease under section 14,

may be recovered from the lessee or his surety (if any) as a demand under Bengal Act 7 of 1880 or any other Act [1] at the time being in force for the recovery of public demands

13 The lease of the tolls of any public ferry shall be liable to be cancelled at once by the Magistrate of the district in which such ferry is situated, if it shall appear to such Magistrate that the lessee has failed to make due provision for the convenience or safety of the public within fifteen days after being required to do so by a notice in writing from such Magistrate

Power to cancel lease.

14. The lessee of the tolls of a public ferry may surrender his lease on the expiration of one month's notice in writing to the Magistrate of the district in which such ferry is situated of his intention to surrender such lease, and on payment of such reasonable compensation as the Magistrate may, with the approval of the Commissioner, in each case direct.

Surrender of lease

[1] See now the Public Demands Recovery Act, 1895 (Ben Act 1 of 1895—printed in Vol IV of this Code), which repeals and re-enacts Ben. Act 7 of 1880

Power to  
make rules  
in regard to  
public ferries

15 The Magistrate of the district, with the approval of the Commissioner, may from time to time make rules consistent with this Act—

- (a) for the management of all public ferries within such district, and for regulating the traffic at such ferries ,
- (b) for regulating the time and manner at and in which, the terms on which, and the person by whom, the tolls of such ferries may be leased by auction ,
- (c) for compensating persons who have compounded for tolls payable for the use of any such ferry when such ferry has been discontinued before the expiration of the period compounded for , and
- (d) generally to carry out the purposes of this Act

And, when the tolls of a ferry have been leased under section 9, such Magistrate may, from time to time, with such approval as aforesaid, make additional rules consistent with this Act—

- (e) for collecting the rents payable for the tolls of such ferries ,
- (f) for regulating the returns of traffic to be, from time to time, submitted by the lessee of such ferries ,
- (g) in cases in which the communication is to be established by means of a bridge of boats, pontoons or rafts, or a swing-bridge flying-bridge or temporary bridge, for regulating the time and manner at and in which such bridge shall be constructed and maintained, and opened for the passage of vessels and rafts through the same, and
- (h) in cases in which the traffic is conveyed in boats, for regulating—
  - the number and kinds of such boats and their dimensions and equipment ,
  - the number of the crew to be kept by the lessee for each boat ,
  - the maintenance of such boats in good condition ,
  - the hours during which, and the intervals within which, the lessee shall be bound to ply, and
  - the number of passengers, animals and vehicles, and the bulk and weight of other things that may be carried in each kind of boat at one trip ,

and may, from time to time, with such approval as aforesaid, repeal or alter such rules.

Rules made under this section shall be subject to the control of the Lieutenant-Governor, and shall be published in the Calcutta Gazette in such

of 1885 ]

## THE BENGAL FERRIES ACT, 1885

*(Part I—Public Ferries—Secs 16-18)*

manner as the Lieutenant-Governor directs, and shall thereupon have the force of law

16 No person shall, except with the sanction of the Magistrate of the district, maintain a ferry to or from any point within a distance of two miles from the limits of a public ferry

Private ferry not to ply within two miles of public ferry without sanction

Provided that, in the case of any specified public ferry, the Lieutenant-Governor may, by notification, reduce or increase the said distance of two miles to such extent as he thinks fit

Provided also that nothing hereinbefore contained shall prevent persons keeping boats to ply between two places, one of which is without, and one within, the said limits, when the distance between such places is not less than three miles, or shall apply to boats which the Magistrate of the district expressly exempts from the operation of this section

17 Claims for compensation for any loss sustained by any person in consequence of a private ferry being taken possession of, or a new public ferry, or subsidiary ferry, being established under section 6 or section 11, shall be inquired into by the Magistrate of the district in which such ferry is situated, who shall, with the approval of the Commissioner, award compensation to any person who may appear justly entitled thereto. Such compensation shall be calculated upon an estimate of the annual net profit actually realized by such person from such ferry on an average of the five years next preceding such declaration, and shall in no case exceed the amount of fifteen times such net annual profit

Claims for compensation and what amount to be awarded

18 Tolls, according to such rates as may, from time to time, be fixed by the Magistrate of the district with the approval of the Commissioner, shall be levied on all persons, animals, vehicles and other things [1] crossing any river by a public ferry and not employed or transmitted on the public service

Tolls

Provided that the Lieutenant-Governor may, from time to time, declare that any persons, animals, vehicles or other things shall be exempt from payment of such tolls.

Where the tolls of a ferry have been leased under section 9, any such declaration, if made after the date of the auction, shall entitle the lessee to such abatement of the rent payable in respect of the tolls as may be fixed by the Magistrate of the district under this section

[1] So much of section 18 as provides for the exemption from payment of tolls of any persons, animals, vehicles or other things which are exempted by section 3 of the Indian Tolls (Army) Act, 1901, (2 of 1901), is repealed by s. 8 of that Act. For further exemptions from tolls, see sections 3 and 4 of the said Act, in General Acts, 1899-1903, Ed. 1904, pp. 143 to 145.

## THE BENGAL FERRIES ACT, 1885

[Ben. Act 1

(Part I —Public Ferries —Part II —Private Ferries —Part III —Penalties and Criminal Procedure —Secs 19-23)

**Table of tolls**      19 The lessee or other person authorized to collect the tolls of any public ferry shall affix a table of such tolls, legibly written or printed in the vernacular language, and also, if the Commissioner so directs, in English, in some conspicuous place near the ferry

**List of tolls**      and shall be bound to produce, on demand, a list of the tolls signed by the Magistrate of the district or such other officer as he appoints in this behalf

**Tolls, rents, compensation and fines how to be appropriated**      20 Except as provided by section 35, all tolls, rents and compensation received by or on behalf of the Government, and all fines levied under this Act, shall be appropriated in the first instance towards the payment of all charges incurred in carrying out the provisions of this Act, and the surplus, if any, shall be credited to such fund as the Lieutenant-Governor may from time to time direct.

**Compounding for tolls.**      21 It shall be lawful for the Magistrate of the district in which a public ferry is situated, with the approval of the Commissioner, from time to time to fix rates at which any person may compound for the tolls payable for the use of such ferry.

## PART II.

## PRIVATE FERRIES

**Power to make rules in regard to private ferries**      22 The Commissioner may from time to time make rules, consistent with this Act, for the maintenance of order, and for the safety of passengers and property, at private ferries situated in his division

Rules made under this section shall be subject to the control of the Lieutenant-Governor, and shall be published in the Calcutta Gazette in such manner as the Lieutenant-Governor directs, and shall thereupon have the force of law

## PART III.

## PENALTIES AND CRIMINAL PROCEDURE

**Penalty for breach of provisions as to table of tolls, list of tolls and return of traffic.**      23. Every lessee or other person authorised to collect the tolls of a public ferry, who neglects to affix and keep in good order and repair the table of tolls mentioned in section 19, or who wilfully removes, alters or defaces such table, or allows it to become gible,

of 1885.]

THE BENGAL FERRIES ACT, 1885

(Part III —Penalties and Criminal Procedure —Secs 24-27 )

or who fails to produce on demand the list of the tolls mentioned in section 19,

and every lessee who neglects to furnish any return required under section 15,

shall be punished with fine which may extend to fifty rupees

24 Every such lessee or other person as aforesaid asking or taking more than the lawful toll, or without due cause delaying any person, animal, vehicle or other thing, shall be punished with fine which may extend to one hundred rupees.

Penalty for taking unauthorized tolls, and for causing delay

25. Every person breaking any rule made under section 15 or section 22 shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

Penalty for breach of rules made under sections 15 and 22  
Cancellation of lease on default or breach of rules.

26. When any lessee of the tolls of a public ferry makes default in the payment of the rent payable in respect of such tolls, or has been convicted of an offence under section 25, or having been convicted of an offence under section 23 or section 24, is again convicted of an offence under either of those sections, the Magistrate of the district may, with the approval of the Commissioner, cancel the lease of the tolls of such ferry, and make other arrangements for its management during the whole or any part of the term for which the tolls were leased.

27 Every person crossing by any public ferry who refuses to pay the proper toll, and every person—

Penalties on passengers offending

who, with intent to avoid payment of such toll, fraudulently or forcibly crosses by any such ferry without paying the toll, or

who obstructs any toll-collector or lessee of the tolls of a public ferry, or any of his assistants, in any way in the execution of their duty under this Act, or

who, after being warned by any such toll-collector, lessee or assistant not to do so, goes, or takes any animals, vehicles or other things, into any ferry-boat, or upon any bridge at such a ferry, which is in such a state or so loaded as to endanger human life or property, or

who refuses or neglects to leave, or remove any animals, vehicles or goods from any such ferry-boat or bridge on being requested by such toll-collector, lessee or assistant to do so, or

who moors any boat, raft or other substance to, or in any way obstructs, any part of a public ferry,

shall be punished with fine which may extend to fifty rupees.

(Part III—Penalties and Criminal Procedure—Part IV—Miscellaneous—  
Secs 28-33)

Penalty for  
plying within  
public ferry  
course with  
out license  
Fines payable  
to lessee

28 Whoever conveys for hire any passenger, animal, vehicle or other thing in contravention of the provisions of section 16 shall be punished with fine which may extend to fifty rupees

29 Where the tolls of any public ferry have been leased under the provisions hereinbefore contained, the whole or any portion of any fine realized under section 27 or section 28 may, notwithstanding anything contained in section 20, be, at the discretion of the convicting Magistrate or Bench of Magistrates, paid to the lessee

Penalty for  
rash naviga-  
tion and  
stacking of  
timber

30 Whoever navigates, anchors, moors or fastens any vessel or raft, or stacks any timber, in a manner so rash or negligent as to damage a public ferry, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both, and the toll-collector or lessee of the tolls of such ferry, or any of his assistants, may seize and detain such vessel, raft or timber pending the inquiry and assessment hereinafter mentioned

Power to  
arrest without  
warrant

31. The police may arrest without warrant any person committing an offence against section 27 or section 30

Magistrate  
may assess  
damage done  
by offender

32 Every Magistrate or Bench of Magistrates trying any offence under this Act may inquire into and assess the value of the damage (if any) done or caused by the offender to the ferry concerned, and shall order the amount of such value to be paid by him in addition to any fine imposed upon him under this Act, and the amount so ordered to be paid shall be leviable as if it were a fine, or when the offence is one under section 30 by the sale of the vessel, raft or timber causing the damage, and of anything found in or upon such vessel or raft

The Commissioner may, on the appeal of any person deeming himself aggrieved by an order under this section, reduce or remit the amount payable under such order.

## PART IV.

### MISCELLANEOUS

Power to  
take posses-  
sion of boats  
and other  
appliances on  
surrender or  
cancellation  
of lease.

33. On the cancelment or surrender of a lease, the Magistrate of the district may take possession of all boats and other appliances which have been used by the lessee in the working of the ferry, and may either retain the same permanently on payment of a fair price to the proprietor, or may retain them for such time as may be necessary, not exceeding three months, until he

of 1885 ]

THE BENGAL FERRIES ACT, 1885

*(Part IV—Miscellaneous—Secs 34-36)*

can make arrangements for such other boats and appliances as may be necessary, in which case the Magistrate of the district shall pay a fair sum to the owners for the use of the said boats and appliances

Provided that, within a week of taking such possession, the Magistrate of the district shall be bound to give notice to the said lessee of his intention to retain the said boats and appliances permanently, or for a period to be specified in the notice

34 When any boats or their equipments, or any materials or appliances suitable for setting up a ferry, are emergently required for facilitating the transport of officers or troops of Her Majesty on duty, or of any other persons on the business of Her Majesty, or of any animals, vehicles or baggage belonging to such officers, troops or persons, or of any property of Her Majesty, the Magistrate of the district may take possession of and use the same (paying such compensation for the use thereof as the Lieutenant-Governor may in each case direct) until such transport is completed

Similar power  
in cases of  
emergency

35 It shall be lawful for the Lieutenant-Governor to order that any public ferry situated in any district in which a district board has been established under the provisions of the Bengal Local Self-Government Act of 1885[1] shall be managed by such district board, and such district board shall have all the powers vested in the Magistrate of the district under this Act except the powers specified in sections 7, 17 and 32, and the Lieutenant-Governor may further order that all or any part of the proceeds of such ferry, and all or any part of the fines levied, and compensation received, under this Act in respect thereof, be paid into the district fund [2]

Management  
may be vested  
in district  
board.

Ben Act 3 of  
1885

And thereupon such ferry shall be managed, and such proceeds, fines and compensation shall be paid, accordingly

The Lieutenant-Governor may from time to time vary or annul any order made under this section

36 The Lieutenant-Governor may, from time to time, delegate,[3] under such restrictions as he thinks fit, any of the powers conferred on him by this Act to any Commissioner or Magistrate of a district, or to such other officer or authority as he thinks fit, by name or by official designation

Delegation of  
powers

[1] Printed in Vol II of this Code

[2] As to the crediting to the District Fund of receipts from public ferries, see also s 53 (4) of the Bengal Local Self Government Act of 1885 (Ben. Act 3 of 1885), in Vol. II of this Code

[3] For an order of delegation under s 36, see the Bengal Local Statutory Rules and Orders, 1903, Vol II, page 158.

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## THE LICENSED WAREHOUSE AND FIRE-BRIGADE ACT, 1893

(BENGAL ACT 1 of 1893)

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## SCHEDULE

## THE LICENSED WAREHOUSE AND FIRE-BRIGADE ACT, 1893

(BENGAL ACT 1 OF 1893) [1]

[28th June, 1893]

### An Act for the licensing of Warehouses and the maintenance of a Fire-brigade

## Preamble

WHEREAS it is expedient to make provision for the licensing of Warehouses and the maintenance of a Fire-brigade, It is hereby enacted as follows —

## CHAPTER I

## PRELIMINARY

## Title and application

1 (1) This Act may be called the Licensed Warehouse and Fire-Brigade Act, 1893.

[1] LEGISLATIVE PAPERS — For Statement of Objects and Reasons, *see* Calcutta Gazette, 1892, Pt. IV, p 3, for Report of Select Committee, *see ibid*, 1893, Pt IV, p 1, and for Proceedings in Council, *see ibid*, Supplement, 1892, pp. 771, 1154, 1252, 1488 and 2160, Supplement, 1893, pp. 348, 446, 532, 556, 612 and 720

LOCAL EXTENT — This Act applies to the Calcutta and Howrah Municipalities, and may be extended to other municipalities in the neighbourhood of Calcutta or Howrah—*see* s 1 (2).

AMENDING ACT — Ben. Act 1 of 1894 is to be read with and taken as part of this Act—*see* Ben. Act 1 of 1894, s. 1, *post*, p 543

RULES AND ORDERS. — For a list of rules and orders made under Ben. Act 1 of 1893, *see* the Bengal Local Statutory Rules and Orders, 1908, Vol I, pp. 119, 120

OTHER ENACTMENTS AS TO FIRE — As to fire brigades in provincial municipalities, *see* the Bengal Municipal Act, 1884 (Ben. Act 3 of 1884), ss 69 (xiv), 349A, 349B, in Vol. III of this Code.

For power to prohibit the use of inflammable materials for buildings in provincial municipa-

## of 1893 ] LICENSED WAREHOUSES AND FIRE-BRIGADE

*(Chapter I—Preliminary—Sec 2)*Ben Act 2 of  
1888

(2) It applies to Calcutta, as defined by the Calcutta Municipal Consolidation Act, 1888,[1] and to such portions of the Suburbs thereof as are for the time being subject to the operation of Bengal Act 2 of 1866, [2] also to the municipality of Howrah, and to any other municipality in the neighbourhood of Calcutta or Howrah to which its provisions may be extended by an order of the Local Government to be published in the Calcutta Gazette

(3) [Commencement] *Rep by the Repealing and Amending Act, 1903 (1 of 1903)*

2 (1) Act 4 of 1883 is hereby repealed

Repeal.

(2) But all rules, orders, declarations, financial arrangements and appointments made under the said Act and which are now in force, shall be deemed to have been made under this Act, so far as they are not inconsistent with the provisions thereof

Saving clause.

Notes, *see* the Bengal Municipal Act, 1884 (Ben Act 3 of 1884), ss 236, 270 (5), in Vol III of this Code

For special provisions as to the use of inflammable materials in buildings—

- in the Darjeeling Municipality, *see* the Bengal Municipal Act, 1884 (Ben Act 3 of 1884), ss 236 and 272A (23b), as amended by the Darjeeling Municipal Act, 1900 (Ben Act 1 of 1900), in Vol III of this Code,
- in the Calcutta Municipality, *see* the Calcutta Municipal Act, 1899 (Ben Act 3 of 1899), ss 368, 574 (368), 575 (368), in Vol III of this Code

As to the licensing of yards depôts and store houses for inflammable materials, *see* the Bengal Municipal Act, 1884 (Ben Act 3 of 1884), s 261 and the Calcutta Municipal Act, 1899 (Ben Act 3 of 1899), s 466 and Sch XVIII, in Vol III of this Code

For power to make bye laws for regulating the letting off of fireworks, etc, in provincial municipalities, *see* the Bengal Municipal Act, 1884 (Ben Act 3 of 1884), s 350 (aa), in Vol III of this Code

For penalty for lighting fire, letting off fireworks, etc, in public places—

- in Calcutta, *see* the Calcutta Police Act, 1866 (Ben Act 4 of 1866), s 66, cl (u), in Vol IV of this Code,
- in the Suburbs of Calcutta, *see* the Calcutta Suburban Police Act, 1866 (Ben Act 2 of 1866), s 40, cl (10), in Vol IV of this Code

As to the prevention and extinction of fire—

- in forests, *see* the Indian Forest Act, 1878 (7 of 1878), ss 25 (b), (c), 31 (k), 32, 78, in General Acts, 1877-81, Ed 1898, pp 136 *et seq*,
- in cantonments *see* the Cantonments Act, 1889 (18 of 1889), s 26 (25), in General Acts, 1885-90 Ed 1898, p 347, and the Cantonment Code, 1899, p 98,
- in ports, *see* the Indian Ports Act, 1889 (10 of 1889), ss 16, 28, 32, in General Acts, 1885-90, Ed 1898, pp. 305 *et seq*

As to the protection of inland steam vessels from danger by fire, *see* the Inland Steam-vessels Act, 1884 (6 of 1884), Ch VI, in General Acts 1882-84, Ed 1898, p 730.

For penalty for negligent conduct with respect to fire or combustible substance, *see* the Indian Penal Code (Act 45 of 1860), s 285, in General Acts, 1884-67, Ed. 1898, p 316.

[1] Ben Act 2 of 1888 has been repealed and re-enacted by the Calcutta Municipal Act, 1899 (Ben Act 3 of 1899), and this reference should now, in accordance with the Bengal General Clauses Act, 1899 (Ben Act 1 of 1899), section 10 (printed *ante*, p. 10), be construed as a reference to the said Calcutta Municipal Act, 1899 (printed in Vol. III of this Code). For the definition of "Calcutta" in that Act, *see* clause (7) of section 3 thereof.

[2] The Calcutta Suburban Police Act, 1866. It is printed in Vol IV of this Code

LICENSED WAREHOUSES AND FIRE BRIGADE [Ben. Act 1  
(Chapter I—Preliminary—Chapter II—Licensed Warehouses—Secs 3, 4)

## Definitions

3 In this Act, unless there is something repugnant in the subject or context,—

(1) "bustee land" means land which the owner lets out for the building of huts, in such manner that the tenant of the land is the owner of the hut

and "hut" includes any structure erected on such land, whether roofed with tiles or otherwise, and whether constructed with bricks, earth or other materials

(2) "cotton" means loose raw cotton

(3) "jute" means raw jute, either loose or in drums, and loose jute-cuttings and rejections

(4) "Magistrate" means and includes a Presidency Magistrate and a Magistrate of the first class

(5) "person" includes an undivided Hindu family,[1] a firm or company or association of individuals whether incorporated or not

(6) "the Commissioner of Police" means the officer vested with the administration of police in the town of Calcutta under the Calcutta Police Act, 1866,[2] and any Act amending the same

Pen Act 4 of  
1866

(7) "the Commissioners" mean, in respect of Calcutta, the Corporation of Calcutta, and in respect of Howrah and the other municipalities to which this Act applies or may hereafter be extended, the Municipal Commissioners of each of the municipalities concerned.

(8) "warehouse" means any building or place, used for the storing or pressing, or keeping of jute, cotton, resin, varnish, pitch, tar, hay, straw, rags, tallow, wood or other inflammable substance or thing [3] for the time being subject to the operation of this Act

## CHAPTER II.

## LICENSED WAREHOUSES

4. \* \* \* [4] No building or place shall be used as a warehouse, unless the owner or occupier thereof shall have previously obtained a license from the Commissioners for such use under this Act.

Warehouse  
not to be  
used till  
licensed.

[1] See *Read* and a firm.

[2] Printed in Vol. IV of this Code.

[3] For power to declare to be warehouses, buildings or places used for the storing, pressing or keeping of other inflammable substances or things, see s. 40, *post*, p. 545

The Act does not apply to buildings or places in which are deposited small quantities of inflammable substances or things,—see s. 45, *post*, p. 546

[4] Formal words which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

of 1893 ]      LICENSED WAREHOUSES AND FIRE BRIGADE  
*(Chapter II—Licensed Warehouses—Secs 5-7)*

Ben Act 2 of  
1872  
Ben Act 5 of  
1879  
Ben Act 4 of  
1883

5 The owner or occupier of any building or place, for which there [1][was in existence on the thirty-first day of March, 1893, or on the date of the commencement of this Act] a license granted under the Joint Warehouse and Fire-Brigade Act of 1872 or 1879, or the Licensed Warehouse and Fire-Brigade Act of 1883,[2] shall, upon application in writing to the Chairman of the Commissioners, be entitled to obtain a license from the Commissioners therefor as a warehouse under this Act, subject to the payment to the Commissioners of such annual fee as is hereinafter provided

License of  
previously  
licensed build-  
ing or place

6 Any person proposing to use any building or place as a warehouse within the area to which this Act applies or may hereafter be extended, and who, at the commencement of this Act, does not hold such license under any of the said aforementioned previous Acts, shall, within his application for a license therefor, send to the Chairman of the Commissioners a plan in duplicate of such building or place prepared on a scale of 8 feet to the inch, and showing—

License of  
new ware-  
house

- (a) the boundaries of such building or place,
- (b) the position of the engines and furnaces used or proposed to be used in the warehouse,
- (c) the space, if any, which has been reserved for the loading and unloading of carts thereat

and thereupon it shall be within the discretion of the Chairman of the Commissioners to grant a license from the Commissioners therefor as a warehouse under this Act, subject to the payment to the Commissioners of such annual fee as is hereinafter provided, or to refuse a license for the same.

Provided that when a license is refused, the reason for such refusal shall be recorded in writing.

Every application for a license under the last preceding section shall be disposed of within thirty days from the date of its being received by the Chairman of the Commissioners, and if not disposed of within that period, the applicant shall not be liable to any penalties under this Act for the use, after the expiration of the said period of thirty days, of the building or place as a warehouse in respect of which such application shall have been made, so long as such application is not finally refused by an order in writing under the hand of the Chairman of the Commissioners setting forth the grounds for such refusal

Period for  
disposal of  
application  
for license

[1] These words in square brackets in s. 5 were substituted for the words "is in existence at the commencement of this Act" by the Licensed Warehouse and Fire-Brigade Amendment Act, 1894 (Ben Act 1 of 1894), s. 2, *post*, p. 548.

[2] Ben. Act 2 of 1872 was repealed by Ben. Act 5 of 1879, which was repealed by Ben. Act 4 of 1883, the last-mentioned Act being repealed by s. 2 of the present Act

LICENSED WAREHOUSES AND FIRE BRIGADE [Ben. Act 1  
(Chapter II—*Licensed Warehouses*—Secs 8-11)

Term and  
conditions of  
license

8 Licenses under section 6 of this Act may be granted either permanently or for such term of years as the Chairman of the Commissioners shall think fit, and shall be subject to the following conditions, namely—

(1) that the warehouse shall at all times be open to the inspection of an officer appointed by the Commissioner of Police. Such officer shall be a member of the Fire-Brigade, but shall not be a member of any Police Force

(2) that the annual fee imposed in respect thereof be paid [1] [in advance]

Special Com-  
mittee may  
exercise  
powers of  
Chairman

9 (1) With the consent of the Chairman of the Commissioners, any Special Committee of the Commissioners, not less than three or more than five in number whom the Commissioners in meeting shall in that behalf appoint, may exercise all or any of the powers and discretion under this Act vested in the Chairman of the Commissioners

(2) The proceedings of such Committee shall not be submitted to the Commissioners in meeting or be subject to revision by them

Annual fee  
of license

10. The annual fee payable in respect of any license shall not exceed ten *per centum per annum* on the annual value of the warehouse as it is assessed to the payment of the municipal taxes, less ten *per centum* on the outlay incurred in respect of the means and appliances, therein or appertaining thereto, for preventing or extinguishing fire

Provided that the annual fee payable by any owner or occupier in respect of any license shall not exceed seven hundred and fifty rupees, and that the estimated total annual amount to be derived from such fees shall not exceed fifty rupees *per centum* of the amount required to meet the cost of the fire-brigade, as shown in the budget mentioned in section 26 of this Act.

Provided also that the owner or occupier of adjacent warehouses and the godowns, yards or compounds auxiliary to such warehouses shall not be bound to take out more than one license in respect of such warehouses, godowns, yards and compounds

Change in  
occupation of  
warehouse  
to be notified

11 Whenever and so often as a change in the occupation of any warehouse occurs, the person entering into occupation of the same shall, within two weeks of his so entering into occupation, give notice in writing to the Chairman of the Commissioners of such change of occupation, and shall thereupon pay to the Commissioners a fee of five rupees, and his name shall

[1] These words in square brackets in s. 8 (2) were substituted for the words "as in that case made and provided," by the Licensed Warehouse and Fire-Brigade Amendment Act, 1894 (Ben. Act 1 of 1894), s. 3, *post*, p 548.

## of 1893 ] LICENSED WAREHOUSES AND FIRE BRIGADE

*(Chapter II—Licensed Warehouses—Chapter III—Penalties—Secs 12-15)*

accordingly be substituted in the license in respect of such warehouse for the name of the last occupier

12. (1) Whenever the Chairman of the Commissioners receives credible information that any of the conditions, to which the license of any warehouse shall be subject, has been broken by the holder thereof, he may apply in writing, setting forth the substance of such information, to a Magistrate for the issue of a summons upon the holder of the license to show cause why such license should not be cancelled or suspended, and may also apply to such Magistrate to suspend in the meantime such license pending the hearing of the case

Chairman  
may apply to  
Magistrate to  
suspend  
license of  
warehouse

(2) The Magistrate shall not make an order suspending such license unless he is satisfied that it is necessary to prevent or obviate immediate danger or injury of a serious kind

(3) The summons issued under this section shall be served upon the said holder of the license named therein in the manner provided in the Code of Criminal Procedure, 1882, [1] for the service of summons

10 of 1882

13 The Magistrate, before whom the case instituted under the last preceding section is brought on for disposal, may, if after taking evidence he be satisfied that there exist reasonable and proper grounds for cancelling or suspending the license, cancel such license, or may order the same, for such time as he may think fit, to be suspended, and may impose such conditions as to the reversal of such order of cancelment or suspension as may be consistent with the provisions of this Act for the grant of a license for a warehouse

Magistrate  
may cancel  
or suspend  
license

## CHAPTER III

## PENALTIES.

14. Any person who, without taking out a license, uses any building or place as a warehouse shall be liable, on conviction before a Magistrate, to a penalty not exceeding fifty rupees for each day during which he may so use or continue to use such warehouse

Penalty for  
not taking  
out license.

15. Any person who uses any warehouse in respect of which a license has been refused, or after the license in respect thereof shall have been cancelled, or during the time for which such license shall have been suspended, shall

Penalty for  
using ware-  
house after  
refusal, etc.,  
of license.

[1] Act 10 of 1882 has been repealed and re-enacted by the Code of Criminal Procedure, 1898 (Act 5 of 1898), and this reference should now be taken to be made to that Code—see s 3 (1) thereof, in General Acts, 1891-98, Ed 1899, p. 382.

LICENSED WAREHOUSES AND FIRE BRIGADE [Ben Act 1  
(Chapter III—Penalties—Secs 16-22)

be liable, on conviction before a Magistrate, to a penalty not exceeding two hundred rupees, and to a further penalty not exceeding fifty rupees for every day during which any such warehouse may be so used as aforesaid

Penalty for breach of conditions of license

16 Any holder of a license who breaks any of the conditions under which a license is held in respect of any warehouse shall be liable, on conviction before a Magistrate, to a penalty not exceeding fifty rupees for any one such offence

Penalty for neglecting to notify change in occupation of warehouse

17 If, and so often as there be a change in the occupation of any warehouse, the person entering into occupation fail to give the notice and to pay the fee required by section 11 of this Act, such person shall be liable, on conviction before a Magistrate, to a penalty not exceeding ten rupees for each day during which he may so use or continue to use such warehouse

Penalty for giving false information to Chairman respecting license

18 Any person who gives false information to the Chairman of the Commissioners with the object of inducing him to take action under section 12 of this Act shall, on conviction before a Magistrate, be liable to a penalty not exceeding fifty rupees

Penalty for preparing, etc., inflammable substance on roof of building

19. Any owner or occupier of a warehouse who shall prepare or dry, or cause to be prepared or dried, any inflammable substance or thing, for the time being subject to the operation of this Act, on the top or roof of any building constituting or forming part of such warehouse shall be liable, on conviction before a Magistrate, to a penalty not exceeding fifty rupees for any one such offence

Penalty for using as residence any warehouse used for pressing jute or cotton

20 Any person who shall use as a residence any portion of a warehouse used for the pressing or screwing of jute or cotton, if jute or cotton be then stored therein, shall be liable, on conviction before a Magistrate, to a penalty not exceeding ten rupees for each day during which he may reside therein

Penalty for using matches or artificial light in warehouse.

21 Any person who shall bring into a warehouse, used for the pressing or screwing of jute or cotton, if jute or cotton be then stored therein or used therein, any matches or any artificial light unless duly and thoroughly protected, shall be liable, on conviction before a Magistrate, to a penalty not exceeding ten rupees for any one such offence.

Penalty for smoking within warehouse.

22. Any person who shall smoke within a warehouse used for the pressing or screwing of jute or cotton, if jute or cotton be then stored therein, shall be liable, on conviction before a Magistrate, to a penalty not exceeding ten rupees for any one such offence.



of 1893 ] LICENSED WAREHOUSES AND FIRE BRIGADE  
(Chapter IV — Funds — Secs 23-25)

## CHAPTER IV

## FUNDS

23 The Commissioners shall pay to the Commissioner of Police half yearly, in the months of May and November, such sums as are required to meet the cost of the fire-brigade as appear in the budget of the Commissioner of Police and in such proportion, respectively, as the Local Government shall, from time to time, prescribe

Commissioners to meet cost of fire brigade

24 The Commissioners shall rateably impose the annual fees payable for licenses under section 10 of this Act upon all warehouses, and shall appropriate towards the cost of the fire brigade the amount derived from such annual fees, and all penalties and fines imposed and all rates levied under this Act

Cost of fire-brigade how to be met.

25 (1) The Commissioners may, for the purpose of further providing the cost of the fire brigade, levy the following rates —

Rates may also be levied to provide for cost of fire brigade

- (a) a rate not exceeding two and-a-half *per centum* on the annual value, as it is assessed to the payment of municipal taxes, on any building or place used for the storage of any other inflammable substance or thing not specifically mentioned in clause (8) of section 3 of this Act, which the Local Government may, by a notification to be published in the Calcutta Gazette, declare to be liable for the payment of such rate

Provided that the rate payable by any owner or occupier in respect of any building or place under this clause shall not exceed one hundred rupees,

- (b) a rate not exceeding one-half *per centum* on the annual value, as it is assessed to the payment of municipal taxes, on all bustee lands with the huts, if any, upon them,
- (c) a general rate not exceeding one-eighth *per centum* on the annual value of all houses and lands assessed under the provisions of the Bengal Municipal Act, 1884, [1] and the Calcutta Municipal Consolidation Act, 1888 [2]

(2) Any building or place in respect of which a license has been granted under this Act as a warehouse, or which has been assessed under clause (a),

[1] Printed in Vol III of this Code.

[2] Ben Act 2 of 1888 has been repealed and re enacted by the Calcutta Municipal Act, 1899 (Ben Act 3 of 1899), and this reference should now, in accordance with the Bengal General Clauses Act, 1899 (Ben Act 1 of 1899), s. 10 (printed *ante*, p 10), be construed as a reference to the said Calcutta Municipal Act, 1899 (printed in Vol III of this Code).

LICENSED WAREHOUSES AND FIRE BRIGADE [Ben Act 1  
(Chapter VI — Funds — Secs 26-29)

and any bustee land assessed under clause (b), shall be exempt from further assessment under clause (c)

Commissioner  
of Police to  
prepare annu-  
ally budget or  
estimate of re-  
ceipts and ex-  
penditure of  
fire brigade

26 (1) The Commissioner of Police shall prepare annually in or before the month of February a budget or estimate of the receipts and expenditure of the fire brigade for the year commencing on the 1st of April next ensuing, and shall distinguish in the receipts of such budget the proportionate sums to be contributed by the several municipalities to which this Act extends or shall hereafter be extended, and shall also show any balance of receipts remaining unexpended, after providing for any legitimate charge against the funds of the fire-brigade, and in like manner, if there be a deficit, shall show such deficit at the close of the previous year, and such credit or debit balances shall be taken into account by the Local Government in fixing the sum to be annually contributed by the municipalities concerned under this Act

(2) Such budget shall be laid before the Commissioners at a meeting, and shall be forwarded by them to the Local Government with such remarks as they shall think fit to record, and it shall be within the discretion of the Local Government to pass, modify or reject the estimates of all or any sums entered in such budget

Sums to be  
appropriated  
as an asset of  
Fire brigade  
Fund  
Mode of re-  
covery of rates  
levied under  
section 25

27 Any sum standing at the credit of the Jute Warehouse Fund of the municipalities above named, \* \* \* \* \* [1]  
shall be appropriated as an asset of the Fire-Brigade Fund under this Act

28 The provisions of the Bengal Municipal Act, 1884, [2] and the Calcutta Municipal Consolidation Act, 1888, [3] relating to the recovery of rates levied under those Acts, respectively, shall, so far as they are consistent with this Act, apply to the recovery of rates levied under section 25 of this Act

Ben Act 3 of  
1884  
Ben Act 2 of  
1888

Provided that the rates levied under this Act in Calcutta shall be included with the four rates mentioned in section 101 of the Calcutta Municipal Consolidation Act, 1888, [3] as one consolidated rate

Ben Act 2 of  
1888

Local Govern-  
ment to fix  
proportionate  
liability for  
cost of fire-  
brigade to be

29. The Local Government may fix the proportionate liability for the cost of the fire-brigade to be borne by the Commissioners of the municipalities to which this Act applies or may hereafter be extended, and may from time to time alter the proportions in which the Commissioners of any or all the

[1] The words and figures "or at the credit of any fund appropriated to the maintenance of the fire-brigade under the provisions of Act 4 of 1883 at the time when this Act comes into force," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted

[2] Printed in Vol III of this Code

[3] Ben Act 2 of 1888 has been repealed and re-enacted by the Calcutta Municipal Act, 1899 (Ben Act 3 of 1899), and these references should now, in accordance with the Bengal General Clauses Act, 1899 (Ben Act 1 of 1899), s 10 (printed *ante*, p 10), be construed as references to the said Calcutta Municipal Act, 1899 (printed in Vol III of this Code)

of 1893 ] LICENSED WAREHOUSES AND FIRE BRIGADE  
*(Chapter V—Fire-brigade —Secs 30-32 )*

municipalities, for the time being, subject to the operation of this Act, are borne by Commissioners  
 liable for the payment of the said sum

## CHAPTER V.

## FIRE BRIGADE

30 The Commissioner of Police shall maintain an efficient fire-brigade for the municipalities or such portions thereof that are for the time being subject to the operation of this Act

Commissioner of Police to maintain fire-brigade for municipalities

31 (1) The Local Government may from time to time make, and when made alter or repeal, such general or special orders as it may think fit—  
 for appointing or removing any member or officer of the force,  
 for furnishing the fire-brigade with such fire-engines, fire-escapes, horses, accoutrements, equipments, tools and implements, as it may think proper,  
 for building or providing stations, or hiring places for the keeping of the force, engines, horses and appurtenances ;

Power of Local Government to make orders with respect to fire brigade

for giving gratuities to persons who have given notice of fires and to those who have rendered effective service to the brigade, on the occasion of fires,

for the training, discipline, good conduct, salaries and pensions of the members of the force,

for the speedy attendance of such members with engines and all necessary implements on the occasion of any alarm of fire,

for sending the force, engines and appurtenances beyond the limits of the area to which this Act extends, in order to extinguish fire in the neighbourhood of the said limits,

for imposing and summarily realizing a fine not exceeding one week's wages from any member of the brigade who may infringe these orders, and,  
 generally, for the maintenance of the fire-brigade in a due state of efficiency

(2) Such orders shall be published in the Calcutta Gazette and shall take effect from the date of such publication

32 (1) On the occasion of a fire, the Commissioner or Deputy Commissioner of Police, or the Chief or other Officer in charge of the fire brigade on the spot, may—

Commissioner of Police, etc., may exercise certain powers on occasion of a fire

(a) remove, or may order any member of the brigade to remove, any persons who by their presence interfere with the due operations of the brigade,

## of 1893] THE LICENSED WAREHOUSE AND FIRE-BRIGADE

(Chapter VI — Fireworks, etc — Chapter VII — Miscellaneous — Secs. 33-40)

## CHAPTER VI

## FIREWORKS, ETC

36 (1) Whoever within the area to which this Act applies, or to which it may hereafter be extended, shall let off rockets or send up fire-balloons without a license from the Commissioner of Police, and whoever shall sell fireworks without a license from the Commissioner of Police, for which a yearly fee not exceeding ten rupees shall be payable, shall be liable, on conviction before a Magistrate, to a penalty not exceeding fifty rupees for every such offence.

Penalty for letting off rockets, etc., and selling fireworks without license

(2) All such fees received by the Commissioner of Police shall be applied by him towards the maintenance of the fire-brigade.

37. The Commissioner of Police may, at his discretion, withdraw or suspend any license granted by him under the last preceding section.

Power of Commissioner of Police to withdraw or suspend license

Provided that a license to sell fireworks shall not be withdrawn or suspended except after thirty days' notice

38 The powers conferred on the Commissioner of Police in respect to Calcutta and the Suburbs by the two last preceding sections, shall be exercised in the municipality of Howrah by the Magistrate of the district, or the officer in charge of the current duties of the Magistrate's office

Magistrate of Howrah to exercise certain powers of Commissioner of Police  
Penalty on house holder for allowing rockets, etc., to be let off within premises without express permission

39 In the event of any rockets being let off or fire-balloons sent up, within the precincts of any private premises or compound without the express permission in writing of the Commissioner of Police or the Magistrate or officer as aforesaid, as the case may be, the owner or occupier, or person under whose immediate control the said premises or compound is, shall be liable to a fine not exceeding fifty rupees, unless he can prove that the offence was committed without his knowledge

## CHAPTER VII

## MISCELLANEOUS.

40 The Local Government may, on the recommendation of the Commissioners in meeting, declare that any building or place used for the storing, or pressing, or keeping of any inflammable substance or thing other than those specified in clause (8) of section 3 of this Act shall be a warehouse within the meaning of, and subject to the operation of, this Act

Local Government may declare other building or place to be a warehouse.

LICENSED WAREHOUSES AND FIRE BRIGADE [Ben Act 1  
(Chapter VII—Miscellaneous—Secs 41-46)]

Report  
respecting  
licenses for  
warehouses,  
etc., to be  
submitted to  
Local  
Government

41 (1) The Commissioners of the several municipalities to which this Act extends shall submit a report to the Local Government once a year, at such time as the Local Government shall direct, giving a statement of account of receipts and disbursements and showing how the provisions of this Act have been carried out, and specifying the warehouses in respect of which licenses have been granted

(2) The Commissioner of Police shall make a similar report, showing the constitution, assets and the working of the fire-brigade during the year, the receipts and expenditure in respect thereof and the proceedings taken by him under sections 36 and 37 of this Act.

(3) Such reports shall be forthwith published in the Calcutta Gazette

Police officer  
may arrest  
offenders  
under section  
36 and convey  
them before  
Magistrate

42. Any person committing any offence in respect of which a penalty is provided by section 36 of this Act may, if his name and address be unknown, be arrested by any officer of police and forthwith conveyed before a Magistrate having jurisdiction in the place in which such offence has been committed, or shall be taken to the nearest police-station within the said jurisdiction, in order that such person may be detained until he can be brought before a Magistrate, or until he shall enter into a recognizance with or without sureties for his appearance before a Magistrate

Time within  
which offend-  
ers should  
be conveyed  
before Magis-  
trate

43 Whenever such person shall be taken to a police-station, the officer in charge of such station shall, as soon as possible, but in every case within twenty-four hours, cause him to be conveyed before a Magistrate having jurisdiction in the matter

Form of  
license for  
warehouse

44 Every license granted under Chapter II of this Act shall, as far as possible, be in the form of the Schedule to this Act annexed

Act not ap-  
plicable to  
buildings  
where small  
quantities of  
jute, &c., are  
deposited

45. (1) Nothing in this Act shall be deemed to apply to buildings or places wherein small quantities of jute, cotton, resin, varnish, pitch, tar, hay, straw, rags, tallow, wood or other inflammable substance or thing for the time being subject to the operation of this Act are deposited

(2) The Local Government may from time to time declare by notification in the Calcutta Gazette, what quantities of jute, cotton, resin, varnish, pitch, tar, hay, straw, rags, tallow, wood or other inflammable substance or thing as aforesaid, shall be deemed to be small quantities within the meaning of the section.

Repeal of  
sections 347

46. Sections 347 of the Calcutta Municipal Consolidation Act 1888, [1]

Ben Act 2 of  
1888.

[1] Ben. Act 2 of 1888 has been repealed and re-enacted by the Calcutta Municipal Act, 1899 (Ben. Act 3 of 1899), and this reference should now, in accordance with the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), s. 10 (printed *ante*, p. 19), be construed as a reference to section 437 of the said Calcutta Municipal Act, 1899 (printed in Vol. III of this Code).

of 1893 ] LICENSED WAREHOUSES AND FIRE BRIGADE  
(Schedule)

Ben Act 3 of 1884 and 261 of the Bengal Municipal Act, 1884, [1] are hereby repealed, in so far as they entitle the Commissioners to levy fees in respect of premises licensed as depôts for hay, straw, wood, rags, jute or other dangerously inflammable material which are licensed and used as warehouses under this Act

of Bengal Act 2 of 1888 and 261 of Bengal Act 3 of 1884

SCHEDULE.

(referred to in section 44)

License under Bengal Act of 18 .

No of 18 .

The Corporation of Calcutta (or the Municipal Commissioners, *as the case may be*) hereby grant unto this license under Bengal Act of , to store (or press and keep) jute (or cotton, resin or other inflammable substance or thing *as the case may be*) in building or place, No or Nos, , Calcutta (or No. or Nos , Howrah, *as the case may be*), subject to the conditions noted on the back, and they hereby acknowledge to have received the sum of Rs , being the license fee due by the said from to 189 in respect of the aforesaid premises, at the rate of Rs *per annum*

Name of owner

Name of occupier

*Secretary to the Corporation  
(or to the Municipal Commissioners).*

The day of

([2] *On the back of the license.*)

CONDITIONS.

(1) The warehouse or warehouses in respect of which this license is granted shall at all times be open to the inspection of an officer appointed by the Commissioner of Police as provided by section 8 of the Licensed Warehouse and Fire-Brigade Act, 1893

Ben Act 1 of 1893

(2) The annual fee imposed in respect to this license shall be payable [3] [in advance.]

[1] Printed in Vol III of this Code.

[2] The words "*On the back of the license*" were substituted for the words "*On the back of the Schedule*" by the Licensed Warehouse and Fire-Brigade Amendment Act, 1894 (Ben Act 1 of 1894), s 6 *post*, p 548

[3] The words "*in advance*" were substituted for the words "*(here state annual or other dates for payment of license fee)*" by the same section.

# THE LICENSED WAREHOUSE AND FIRE-BRIGADE AMENDMENT ACT, 1894

(BENGAL ACT 1 OF 1894) [1]

[21st March, 1894]

## An Act to amend Bengal Act 1 of 1893

Preamble

WHEREAS it is expedient to amend the Licensed Warehouse and Fire-  
Brigade Act, 1893, [2] It is hereby enacted as follows —

Ben Act 1 of  
1893

Title

1. This Act may be called the Licensed Warehouse and Fire-Brigade  
Amendment Act, 1894. It shall be read with, and taken as part of, Bengal  
Act 1 of 1893. [2]

[Commencement] *Rep by the Repealing and Amending Act, 1903 (1 of 1903).*

Amendment  
of section 5

2 In section 5, for the words “ is in existence at the commencement of  
this Act ” the words “ was in existence on the thirty-first day of March,  
1893, or on the date of the commencement of this Act ” shall be substituted

Amendment  
of section 8

3. In section 8, clause (2), for the words “ as in that case made and  
provided ” the words “ in advance ” shall be substituted

4, 5. [Insertion of sections 10 A and 46 A] *Rep by the Repealing and  
Amending Act, 1903 (1 of 1903)*

Amendment  
of Schedule

6. In the Schedule, for the words “ On the back of schedule ” the words  
“ On the back of the license,” and at the end thereof, for the words “ ( here  
state annual or other dates for payment of license fee ) ” the words “ in  
advance ” shall be substituted

[1] LEGISLATIVE PAPERS — For Statement of Objects and Reasons, see Calcutta Gazette, 1894, Pt IV, p 1, and for Proceedings in Council, see *ibid*, Supplement, 1894, pp 238 and 333

LOCAL EXTENT — Since this Act is to be “ read with and taken as part of Ben Act 1 of 1893,” its local extent is the same as that of the said Act, as to which see the second paragraph of footnote [1] on p. 534, *ante*

[2] Printed *ante*, p 534

# FISHERIES

## THE PRIVATE FISHERIES PROTECTION ACT, 1889

(BENGAL ACT 2 OF 1889) [1]

### PREAMBLE

### CONTENTS

#### SECTION

- 1 Short title
- 2 Interpretation-clause.
- 3 Penalties
- 4 Forfeiture of fixed engines  
Removal of fixed engine
- 5 Entry upon the land of another or upon private waters with intent to commit an offence
- 6 Offences under this Act considered " cognizable offences "

[26th June, 1889]

### An Act for the protection of the right of fishing in private waters.

WHEREAS it is expedient to provide for the protection of private rights of fishery, It is hereby enacted as follows —

1 This Act may be called the Private Fisheries Protection Act, 1889

Short title

2 In this Act—

" fish " includes shell-fish and turtles

Interpretation clause  
" Fish."

[1] LEGISLATIVE PAPERS —For Statement of Objects and Reasons, *see* Calcutta Gazette, 1889, Pt IV, p 6, for Report of Select Committee, *see ibid.*, p 32, and for Proceedings in Council, *see ibid.*, Supplement, 1889, pp 658, 714, 947 and 960

LOCAL EXTENT —Since this Act contains no local extent clause, it must be taken to extend to the whole of Bengal

The application of the Act is, however, barred in the de regulationised tracts as follows, namely —

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s 3(2), *ante*, p. 257,

in the Chittagong Hill-tracts, by the Chittagong Hill tracts Regulation, 1900 (1 of 1900), s 4 (2), *ante*, p 282, and

in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3(2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s 3, *ante*, p 294

OTHER ENACTMENTS —The Indian Fisheries Act, 1897 (4 of 1897), is to be read as supplemental to this Act—*see* s 2 of the former Act, in General Acts, 1891-98, Ed 1899, p 291

As to fishing in forests, *see* the Indian Forest Act, 1878 (7 of 1878), ss 25 (e), 31 (j), in General Acts, 1877-81, Ed. 1898, pp 137, 140

As to fishing stakes in fairways leading to ports, *see* the Obstructions in Fairways Act, 1881 (16 of 1881), in General Acts, 1877-81, Ed 1898, p. 390

For power to make rules prohibiting or regulating fishing in public parks, *see* the Bengal Public Parks Act, 1904 (Ben Act 2 of 1904), s. 4 (f), in Vol IV of this Code

PUBLIC FISHERIES —As to fishing in other than private waters, *see* The Board's Rules, 1902 pp 225, 226, paras 14, 15.



## THE PRIVATE FISHERIES PROTECTION ACT, 1889 [Ben Act 2 of 1889.]

(Secs 3-6)

“ Fixed engine ”

“ fixed engine ” means any net, cage, trap or other contrivance for taking fish, fixed in the soil or made stationary in any other way

“ Private waters ”

“ private waters ” means waters—

(a) which are the exclusive property of any person, or

(b) in which any person has an exclusive right of fishery, and in which fish are not confined but have means of ingress or egress

Penalties

3 Any person who—

(a) fishes in any private waters not having a right to fish therein

(b) erects, places, maintains or uses any fixed engine in private waters, or puts, or knowingly permits to be put, therein any matter for the purpose of catching or destroying fish without the permission of the person to whom the right of fishery therein belongs,

shall be guilty of an offence, and shall be punished for a first offence with a fine not exceeding fifty rupees,

and for a subsequent offence with imprisonment, which may be simple or rigorous, for a term not exceeding one month, or with a fine not exceeding two hundred rupees, or both

Provided that nothing herein contained shall apply to acts done by any person in the exercise of a *bona fide* claim of right, or shall prevent any person from angling with a rod and line or with a line only in any portion of a navigable river

Forfeiture of fixed engines

4 (1) Any fixed engine erected, placed, maintained or used in contravention of the last preceding section, and any fish taken by means of such engine, or otherwise in contravention of this Act, shall be forfeited.

Removal of fixed engine.

(2) And such fixed engine may be removed or taken possession of by the Magistrate of the district, or such person as he empowers in this behalf.

Entry upon the land of another or upon private waters with intent to commit an offence.

5. Whoever enters upon land in the possession of another or upon private waters, with intent to commit any of the offences specified in section 3, shall be punished with a fine not exceeding fifty rupees

Offences under this Act considered “ cognizable offences.”

6. Offences committed under this Act shall be considered to be “ cognizable offences ” as defined in the Code of Criminal Procedure [1]

10 of 1882.

[1] Act 10 of 1882 has been repealed and re-enacted by the Code of Criminal Procedure, 1898 (Act 5 of 1898), and this reference should now be taken to be made to the latter Act—see s. 2 (1) thereof, in General Acts, 1891-98, Ed. 1899, p. 382.

# FOREIGN IMMIGRANTS

## THE BENGAL FOREIGN IMMIGRANTS REGULATION, 1812 <sup>[1]</sup>

(REGULATION 11 OF 1812)

[18th July, 1812]

A Regulation to empower the <sup>[2]</sup> [Local Government] to order the removal of emigrants from foreign countries, and their descendants, from any place in the vicinity of the frontier of the State from which they may have emigrated, and, in certain cases, to place and detain any such persons in safe custody, and likewise to provide for the trial of emigrants and their descendants who may excite disturbances in the countries from which they may have emigrated, and of persons aiding them in the prosecution of such attempts

1. WHEREAS considerable bodies of persons, being Natives of Arakan and ordinarily denominated Muggs, have from time to time emigrated from that country and established themselves in that part of the district of Chittagong which lies contiguous to the Arakan frontier, Preamble

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[1] SHORT TITLE—This short title was given by the Amending Act, 1897 (5 of 1897), printed *ante*, p. 15

LOCAL EXTENT—This Regulation has been declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 6 (printed in General Acts, 1868-76, Ed. 1898, p. 485), to be in force throughout Bengal, except as regards the Scheduled Districts

The Regulation has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s. 3, to be in force in the following Scheduled Districts, namely:—

West Jalpaiguri, in the Jalpaiguri District—*see* Vol. V, Part V B (a), and the Dumsou Sub division, in the Darjeeling District—*see ibid*

The Regulation is in force in the following de-regulationised tracts, namely —

the Angul District—*see* Vol. V, Part VI B (a), and the Sonthal Parganas—*see ibid*, Part VI B (c)

The application of the Regulation is barred in the other de-regulationised tracts in Bengal, namely, the Chittagong Hill-tracts, by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4(2), *ante*, p. 282

OTHER ENACTMENTS.—For powers for preventing subjects of Foreign States from residing or sojourning in British India, or from passing through or travelling therein, *see* the Foreigners Act, 1864 (3 of 1864), in General Acts, 1864-67, Ed. 1898, p. 422.

For other enactments relating to foreigners, *see* the title "Alien" in the Index to the Indian Statutes, Ed. 1897, p. 28.

[2] The words "Local Government" were substituted for the words "Governor General in Council" by the Amending Act, 1897 (5 of 1897), *ante*, p. 15

FOREIGN IMMIGRANTS  
THE BENGAL FOREIGN IMMIGRANTS  
(Sec 2.)

[Reg. 1]

And whereas numbers of those persons, or of their descendants, abusing the protection which had been afforded to them in the British territories, have excited disturbances and even levied war in the country of Arakan against the Government of Ava,[1] of which State Arakan is now a dependency, and have conducted themselves in a manner manifestly tending to disturb the relations of amity which subsist between the British Government and the Government of Ava,[1]

And whereas it is, in consequence, necessary that the [2] [Local Government] should possess legal powers to remove the said bodies of emigrants and their descendants from the frontier of the territory of Arakan, or any other bodies of aliens, or their descendants, from the vicinity of the country from which they may have emigrated, and likewise to detain in confinement any of those persons, or any other individuals being Natives of foreign countries, or their descendants, for offences of the above nature actually committed by them in the territories of the State from which they may have emigrated,

And whereas it is necessary to make provision for the trial of persons committing, or aiding in the commission of, the said offences, the following rules have been passed, to be in force from the period of their promulgation throughout the territories immediately dependent on the Presidency of Fort William

Power to  
order removal  
of emigrants  
to parts of  
country deem  
ed convenient

2 Whenever the [2] [Local Government], upon due investigation, shall be satisfied that the emigrants from Arakan, or emigrants from any other State, who may have sought an asylum in the British territories, or the descendants of any of the said emigrants, shall have abused the protection afforded to them, by attempts to excite disturbances in the State from which they or their ancestors may have emigrated, it shall be competent to the [2] [Local Government] to order the removal of those persons to such other part or parts of the country as may be judged most convenient for their future residence.

In like manner it shall be competent to the [2] [Local Government] to order such removal whenever [3] [it] may have grounds to be satisfied that the residence of any body of aliens, or their descendants, in the vicinity of the frontier of the country from which they or their ancestors may have emigrated, is likely to

---

[1] The Government of Ava has ceased to exist, its territories having been annexed to the British Dominions. The territories are now known as "Upper Burma."

[2] The words "Local Government" were substituted for the words "Governor General in Council" by the Amending Act, 1897 (5 of 1897) *ante*, p. 15.

[3] The word "it" was substituted for the word "he" by the Burma Laws Act, 1898 (18 of 1898), s. 16, printed in the Burma Code, Ed. 1899, p. 265.

of 1812]

REGULATION, 1812

(Secs 3-5.)

cause any serious misunderstanding between that State and the British Government.

3 Whenever any body of emigrants, or any individuals belonging to such body, shall be ordered to be removed from the part of the country in which they may have been established, they shall be allowed to dispose of any property which they may have acquired in such manner as they may judge proper

Emigrants  
allowed to  
dispose of  
property

Provided, however, that if they shall nevertheless retain the right to any real property at the period of their actual removal, it shall be competent to the [1] [Local Government] to order such property to be sold by public auction under the superintendence of the Collector of the district

In that case the nett proceeds of the sale shall be duly paid to the person or persons to whom the said property belonged

4 In cases in which the [1] [Local Government] may, on due inquiry and mature deliberation, be satisfied that either the preservation of the tranquility of the British territories, or of the dominions of the allies of the British Government, or the maintenance of the relations of amity subsisting between the British Government and other States, requires that any of the leaders or other persons of the above description, who may have committed the offences mentioned in section 2 of this Regulation, should be placed and detained under restraint, it shall be competent to the [1] [Local Government] to order any such persons having committed any of the said offences, but not otherwise, to be apprehended and committed to confinement at such place, and under the custody of such public officer, and detained in confinement for such time, as may be deemed by the [1] [Local Government] necessary for the public good

Power to  
order leaders  
or other  
emigrants to  
be apprehended and  
kept under  
restraint

5 *First* — Any persons of the above description, or their descendants, who, while living under the protection of the British Government, shall enter the country from which they or their ancestors may have emigrated, or any other foreign country, and shall excite, or attempt to excite, disturbances in the said countries, shall be liable to be brought to trial for that offence \* \* [2], and, if convicted, shall be sentenced to suffer imprisonment for the period of seven years.

Punishment  
for emigrants  
or their descendants  
exciting disturbances  
in countries  
from which  
they emigrated.

*Second* — Any persons, whether Native British subjects or aliens, who

Punishment  
for persons

[1] The words "Local Government" were substituted for the words "Governor General in Council" by the Amending Act, 1897 (5 of 1897), *ante* p 15

[2] The words "before the Court of Circuit," in clause *First* of s 5, which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted

## THE BENGAL FOREIGN IMMIGRANTS REGULATION, 1812 [Reg 11 of 1812]

(Sec 5)

aiding or  
assisting in  
attempts to  
excite such  
disturbances

shall furnish emigrants from foreign countries with any assistance, either of men, money or arms, in prosecution of their attempts to excite disturbances in the country from which they may have emigrated, or in any other country, or shall otherwise aid such aliens in the prosecution of their criminal design, shall be liable to be brought to trial for that offence \* \* \* [1], and, if convicted, shall be sentenced to suffer imprisonment for the term of seven years

Proviso

Provided, however, that, if the Judge \* \* \* [2] by whom the case may be tried shall be of opinion that the punishment established by this and the preceding clause should in any instance be mitigated, he shall submit the proceedings held on the trial [3] [to the Local Government, and the Local Government shall pass such orders thereon as it may think fit]

Provided, moreover, that no sentence or order which may be passed on the trial of any persons under the provisions of the present Regulation shall be competent, or shall be construed, to preclude the [4] [Local Government] from the exercise of the power vested in the Government by section 1 of [5] [this Regulation]

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[1] The words "before the Court of Circuit," which were repealed by the Repealing Act, 1874 (16 of 1874), are omitted

[2] The words "of Circuit," which were repealed by the same Act, are omitted

[3] These words in square brackets were substituted for the words "to the Nizamat Adalat, who will recommend to the Governor General in Council such alleviation of the prescribed punishment as they may judge proper" by the Amending Act, 1897 (5 of 1897) *ante*, p 15

[4] The words "Local Government" were substituted for the words "Governor General in Council" by the Amending Act, 1897 (5 of 1897), *ante*, p 15

[5] The words "this Regulation" were substituted for the words "the said Regulation" by the Repealing and Amending Act, 1903 (1 of 1903), *ante*, p 18

# FORT WILLIAM

## THE FORT WILLIAM ACT, 1881

(ACT 13 OF 1881) [1]

[11th March, 1881]

An Act to provide for the better government of Fort William

WHEREAS it is expedient to give power to make rules for the better government of Fort William in Bengal, and to provide for the establishment of a Court within the said Fort for the trial of persons charged with breaches of such rules, It is hereby enacted as follows —

Preamble

1 This Act may be called the Fort William Act, 1881,  
And it shall come into force on the first day of April, 1881.

Short title  
Commence-  
ment

4 & 45 Vict.,  
58  
of 1869.

But nothing herein contained shall be deemed to confer jurisdiction over any persons (other than artificers, labourers, sutlers and followers) to whom the [2] [Army Act] or the Indian Articles of War, 1869, [3] is or are applicable.

2 The Governor General in Council may, from time to time, by notification [4] in the Gazette of India, define, for the purposes of this Act, the limits of Fort William in Bengal, and in this Act the expression "the Fort" means the area so defined

The "Fort"

3. The Commander-in-Chief in India may, from time to time, with the sanction of the Governor General in Council, make rules, to be in force within the Fort, in regard to the matter specified in the schedule hereto annexed and other matters of a like nature, and may by such rules prescribe, as penalties for the infingement thereof, fine which may extend to fifty rupees, or imprisonment for a term which may extend to four days, or both

Commande-  
in-Chief may  
make rules.

When a sentence of fine is passed under any such rule, the term for which

[1] LEGISLATIVE PAPERS — For Statement of Objects and Reasons, *see* Gazette of India, 1881, Pt V, p 48, and for Proceedings in Council, *see* *ibid.*, Supplement, 1881, pp 50, 96, 280 and 384.  
LOCAL EXTENT — This Act applies only to Fort William, within the limits defined under section 2

The Cantonments Act, 1889 (13 of 1889, printed in the General Acts, 1885-90, Ed. 1898, p 335), is in force in Fort William — *see* s 1 (2) of that Act. For power to declare who should exercise in the Fort the powers conferred by or under that Act, *see* s. 30 of the Act

[2] The words "Army Act," in s 1, were substituted for the words and figures "Army Discipline and Regulation Act, 1879," by the Repealing and Amending Act, 1908 (1 of 1908), *ante*, p. 18. The Army Act is printed in the Collection of Statutes relating to India, Vol II, Ed 1901, p. 614

[3] Printed in the General Acts, 1868-76, Ed 1898, p 38

[4] See Notification No. 498, dated 12th September, 1884, in Gazette of India, 13th *idem*, Pt. I, p 326. Revised boundaries of Fort William, "commonly known as the Calcutta Maidan," and of the Military Burial-ground were published under Notification No. 161 J, dated the 9th January, 1894, in the Calcutta Gazette of the 10th *idem*, Pt. I, p. 26.

the Court directs the offender to be imprisoned in default of payment of such fine may extend to, and shall not exceed, four days.

When any rule is made under this section, a copy thereof, in English and such other languages as the Governor General in Council may from time to time direct, shall be exhibited in such conspicuous places within the Fort as the Officer commanding the Fort may from time to time direct

Governor  
General in  
Council may  
invest officer  
with power  
to try breach  
es of rules  
Procedure to  
be followed

4 The Governor General in Council may invest any commissioned officer in Her Majesty's Army with power to try persons charged with any infringement of the rules made under section 3

The officer so invested is hereinafter called the Fort Magistrate.

5 In all cases under this Act, the Fort Magistrate shall, except as herein otherwise provided, exercise within the Fort the powers, and as nearly as may be, follow the procedure, conferred on, and prescribed for, a Presidency Magistrate by the [1] [Code of Criminal Procedure, 1898], and, subject to the power conferred by [2] [section 526 of that Code], every finding, sentence or order of such Magistrate under this Act shall be final.

5 of 1898

Power to  
arrest with-  
out warrant.

6. Any police-officer, or any other person empowered in this behalf by the Governor General in Council, by name or as a member of a specified class, may arrest without warrant any person who in his sight commits an offence punishable under this Act

Power to  
police officer  
to release on  
bail

Every person so arrested shall be taken to the police-station within the Fort, and shall be detained there until he gives to the police-officer in charge of such station a bond, with or without sureties, as such officer may require, for a sum not exceeding one hundred rupees, to appear before the Fort Magistrate at a time to be specified in such bond, or until he can be brought before such Magistrate

Jurisdiction  
of Presidency  
Magistrates  
and prosecu-  
tions under  
other laws  
saved.

7. Nothing in this Act or in any rule made hereunder shall affect the jurisdiction of the [3] [Presidency Magistrates] or shall prevent any person from being prosecuted under any other law for any offence punishable under this Act or from being liable to any other punishment than is provided for such offence by this Act.

Provided that no person shall be punished twice for the same offence

[1] These words and figures in square brackets in s 5 were substituted for the words and figures "Presidency Magistrates Act, 1877" by the Repealing and Amending Act, 1933 (1 of 1933), *ante*, p 18

[2] The words and figures "section 523 of that Code," in s 5, were substituted for the words and figures "the High Courts Criminal Procedure Act, 1873, section 147" by the same Act

[3] The words "Presidency Magistrates," in s 7, were substituted for the words and figures "Magistrates appointed under the Presidency Magistrates Act, 1877," by the same Act

of 1881 ]

## THE FORT WILLIAM ACT, 1881

(Sec 8 — *The Schedule* )

8 No prosecution for any offence under this Act shall be commenced after the expiration of three months next after such offence has been committed

Limitation  
of time for  
prosecutions  
under Act

9 [ *Validation of penalties heretofore imposed by Garrison Quarter Master* ] Rep. by the Repealing and Amending Act, 1891 (12 of 1891)

## THE SCHEDULE

(see section 3)

(1) Throwing dirt or rubbish of any description into the drains or roads, or anywhere but in the appointed places.

(2) Removing night-soil without a covering or at unauthorised hours

(3) Camp-followers, servants, and others not keeping the godowns they live in clean.

(4) Performing offices of nature in other than the appointed places

(5) Bathing, or washing clothes or animals, in the *cunette* or other unauthorised places

(6) Selling unwholesome articles of food, grain or drinks

(7) Adulterating food or drinks

(8) Making evacuations in unauthorised places.

(9) Rash or negligent driving

(10) Picketing, training or breaking in animals

(11) Causing obstruction by vehicles on the road.

(12) Exposing or hawking articles for sale about the roads and barracks or within the Fort without a Fort pass.

(13) Beating drums or tom-toms.

(14) Damaging lamps, posts, masonry or other Government property in any part of the Fort

(15) Disorderly behaviour in the public thoroughfares

(16) Gambling

(17) Spitting pan on any of the public staircases, gateways, walls and verandahs, or defacing in any way the walls of barracks, buildings or gateways

(18) Throwing slops into the drains.

(19) Washing cooking-pots at the water-taps and wasting water.

(20) Cooking in unauthorised places

(21) Hanging clothes to dry on the guns or masonry-work.



*(The Schedule )*

- (22) Laying out clothes, accoutrements or stable-bedding after the authorised hours
- (23) Destroying the trees, bushes or plants, or climbing trees
- (24) Servants smoking hookas in their masters' quarters or cook-houses, or keeping such quarters or cook-houses in an insanitary state
- (25) Trespassing on parade-grounds, or making foot-paths across the grass-plots
- (26) Being drunk and incapable
- (27) Fighting, quarrelling and creating a disturbance, or making unnecessary noise of any kind
- (28) Affixing bills and papers on any walls in the Fort
- (29) Cutting grass or interfering with the grass contractor
- (30) Declining to show a tin pass when called upon to do so
- (31) Being found in the garrison without a tin pass, or being in possession of a ticket belonging to another
- (32) Driving vehicles without lights or with insufficiently-greased wheels.
- (33) Swinging or sitting on the chain-fences
- (34) Interfering in any way with the guns, carriages, or piles of shot and shell on the works, or with the packed ordnance
- (35) Mounting the ramparts or parapets or entering the embrasures without authority
- (36) Smuggling liquor into the Fort
- (37) Burning stable-litter or lighting fires except in authorised places and at authorised hours.
- (38) Carrying lights except in closed lanterns, or letting off fireworks
- (39) Removing property of any kind or description from the Fort without written authority.
- (40) Allowing animals of any sort to stray into the Fort, or to graze within the same
- (41) Slaughtering animals or exposing carcasses or offal within the Fort.
- (42) Keeping dogs or poultry in unauthorised places
- (43) Buying, selling or receiving any portion of a soldier's kit.
- (44) Disobedience of lawful authority in failing to attend to authorised instructions of the police or of the several sentries posted throughout the Fort.
- (45) Occupying buildings of any kind without proper allotment.

# GAMBLING.

Ben Act 2 of 1867	• the Bengal Public Gambling page 560 Act, 1867.
Ben Act 3 of 1897	• the Bengal Rain-gambling „ 565 Act, 1897

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## THE BENGAL PUBLIC GAMBLING ACT, 1867

(BENGAL ACT 2 OF 1867).

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THE BENGAL PUBLIC GAMBLING ACT 1867 [Ben Act 2  
(Sec 1)]

THE BENGAL PUBLIC GAMBLING ACT, 1867 [1]

(BENGAL ACT 2 OF 1867)

[10th April, 1867]

An Act to provide for the punishment of public gambling and the keeping of common gaming-houses in the territories subject to the Lieutenant-Governor of Bengal.

WHEREAS it is expedient to make provision for the punishment of public gambling and the keeping of common gaming-houses in the territories subject to the Lieutenant-Governor of Bengal, It is enacted as follows —

Definitions

1 In this Act, "common gaming-house" means any house, tent, room, space or walled enclosure

in which cards, dice, tables or other instruments of gaming are kept or used for the profit or gain of the person owning, occupying, using or keeping such house, tent, room, space or enclosure, whether by way of charge for the use of the instruments of gaming or of the house, enclosure, room or place, or otherwise howsoever,

[1] SHORT TITLE —This short title was given by the Repealing and Amending Act, 1903, (1 of 1903), printed *ante*, p 18

LEGISLATIVE PAPERS —For Statement of Objects and Reasons, *see* Calcutta Gazette, 1867, p 141

LOCAL EXTENT —Sections 7 and 11 of this Act apply to the town and suburbs of Calcutta, and section 13 applies to the whole of Bengal (*see* s 16, *post*, p 56). Other sections of the Act apply to places to which they are extended by notification under section 2

The Act has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), s 3, to be in force in the following Scheduled Districts, namely —

the Hazaribagh, Ranchi, Palamau and Manbhum Districts, and Pargana Dhalbhum and the Kolhan in the Singhbhum District, in the Chota Nagpur Division—*see* Vol V, Part V B (b)

The Act is in force in the Sonthal Parganas—[*see* Vol V, Part VI B (c)], but its application in the other de-regulationised tracts in Bengal is barred as follows, namely —

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s 3 (2) *ante*, p 257 and

in the Chittagong Hill Tracts, by the Chittagong Hill Tracts Regulation, 1900 (1 of 1900), s 4 (2), *ante*, p 282

For a list of places to which the Act, or part of it, has been extended under s 2, *see* the Bengal Local Statutory Rules and Orders, 1903, Vol I, pp 85 to 94

REPRINT —This Act has been reprinted (by the Legislative Department of the Government of Bengal) as modified by subsequent legislation up to the 1st April, 1904

ORDER —For an order under s. 5 of this Act, *see* the Bengal Local Statutory Rules and Orders, 1903, Vol II, p 202

OTHER ENACTMENTS —For further provisions as to gambling in Bengal, *see*—

(1) the Howrah Offences Act, 1857 (21 of 1857), ss. 10 to 15, 59, in Vol II of this Code,

(2) the Indian Penal Code (Act 45 of 1860), s. 294 A, in General Acts, 1834-67, Ed. 1898, p. 318,

(3) the Calcutta Police Act, 1866 (Ben. Act 4 of 1866), ss. 3, 44 to 51, in Vol IV of this Code,

(4) the Indian Contract Act, 1872 (9 of 1872), s. 30, in General Acts, 1867-76, Ed. 1898, p. 310, and

(5) the Port William Act, 1881, s. 3 and Sch., Art. (16), *ante*, pp. 555 and 557.

of 1867]

## THE BENGAL PUBLIC GAMBLING ACT, 1867

(Secs 2, 3)

[1] [of in which rain-gambling, that is to say, wagering on the occurrence or non-occurrence of rain, is carried on for the profit or gain of any such person as aforesaid]

[2] [“ gaming ” shall include rain-gambling ,

“ instruments of gaming ” shall include books or registers in which rain gambling wagers are entered, all other documents containing evidence of such wagers, and anything used as a means of rain-gambling] ,

\* \* \* \* [3].

2 It shall be competent to the Lieutenant-Governor of Bengal, whenever he may think fit, to extend, by a notification to be published in the three successive numbers of the Calcutta Gazette, all or any of the sections of this Act to any city, town (save the town of Calcutta [4] as defined by Act 6 of 1863 passed by the Lieutenant-Governor of Bengal in Council) or place within the territories subject to his government, and in such notification to define for the purposes of this Act, the limits of such city, town or place, and from time to time to alter the limits so defined.

Power to extend Act

3. Whoever, being the owner or occupier, or having the use, of any house, tent, room, space or walled enclosure, situate within the limits to which this Act applies, opens, keeps or uses the same as a common gaming-house ,

Penalty for owning or keeping, or having charge of common gaming house.

and whoever, being the owner or occupier of any such house, tent, room, space or walled enclosure as aforesaid, knowingly or wilfully permits the same to be opened, occupied, used or kept by any other person as a common gaming house ,

and whoever has the care or management of, or in any manner assists in conducting, the business of any house, tent, room, space or walled enclosure as aforesaid, opened, occupied, used or kept for the purpose aforesaid ,

and whoever advances or furnishes money for the purpose of gaming with persons frequenting such house, tent, room, space or walled enclosure,

[1] These words in square brackets in s. 1 were added by the Bengal Rain-gambling Act, 1897 (Ben Act 3 of 1897), s. 4 (1), *post*, p. 566

[2] The definitions of “ gaming ” and “ instruments of gaming ” were inserted by s. 4 (2), of the same Act. They are to be deemed to be in force on and from the 26th May, 1897, in every city, town or place to which Ben. Act 2 of 1867, or any part thereof, was, before that day, extended by notification under its second section—*see* Ben. Act 3 of 1897, s. 1 (3), *post*, p. 566.

[3] The clauses as to gender and number, which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted. *See* now the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), s. 14, *ante*, p. 10.

[4] *i. e.*, all places within the local limits of the ordinary original civil jurisdiction of His Majesty's High Court of Judicature at Fort William in Bengal. Ben. Act 6 of 1863 was repealed by Ben. Act 4 of 1876, which again was repealed by Ben. Act 2 of 1883, and Ben. Act 2 of 1888 has been repealed and re-enacted by the Calcutta Municipal Act, 1899 (Ben. Act 3 of 1899), printed in Vol. III of this Code.

shall be liable, on conviction before any Magistrate, to a fine not exceeding two hundred rupees, or to imprisonment, of either description as defined in the Indian Penal Code, [1] for any term not exceeding three months.

45 of 1860

Penalty for  
being found  
in common  
gaming  
house

4 Whoever is found in any such house, tent, room, space, or walled enclosure, playing or gaming with cards, dice, counters, money or other instruments of gaming, or is found there present for the purpose of gaming, whether playing for any money, wager, stake or otherwise, shall be liable, on conviction before any Magistrate, to a fine not exceeding one hundred rupees or to imprisonment of either description, as defined in the Indian Penal Code, [1] for any term not exceeding one month, and any person found in any common gaming-house during any gaming or playing therein shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

45 of 1860.

Power to  
enter and  
authorise  
police to  
enter and  
search

5 If the Magistrate of a district [2], or other officer invested with the full powers of a Magistrate [3], or the District Superintendent of Police upon credible information, and after such inquiry as he may think necessary, has reason to believe that any house, tent, room, space or walled enclosure is used as a common gaming-house,

he may either himself enter, or by his warrant authorise any officer of police, not below such rank as the Lieutenant-Governor shall appoint in this behalf, to enter, with such assistance as may be found necessary, by night or by day, and by force if necessary, any such house, tent, room, space or walled enclosure, and may either himself take into custody, or authorize such officer to take into custody, all persons whom he or such officer finds therein, whether or not such persons may be then actually gaming,

and may seize or authorise such officer to seize all instruments of gaming, and all moneys and securities for money, and articles of value, reasonably suspected to have been used or intended to be used for the purpose of gaming, which are found therein;

and may search or authorize such officer to search all parts of the house, tent, room, space or walled enclosure which he or such officer shall have so entered, when he or such officer has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he or such officer so takes into custody;

[1] See Act 45 of 1860, s. 53, in General Acts, 1854-67, Ed., 1898, p. 250.

[2], [3] Now District Magistrate and Magistrate of the first class, respectively—see the Code of Criminal Procedure, 1898 (Act 5 of 1898), s. 3 (2), in General Acts, 1891-98, Ed. 1899, p. 382.

of 1867 ]

## THE BENGAL PUBLIC GAMBLING ACT, 1867

(Secs 6-11)

and may seize or authorise such officer to seize and take possession of all instruments of gaming found upon such search

6 When any cards, dice, gaming-table, cloth, boards or other instruments of gaming are found in any house, tent, room, space or walled enclosure entered or searched under the provisions of the last preceding section, or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, tent, room, space or walled enclosure is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Magistrate or police-officer, or by any person acting under the authority of either of them

Finding cards etc, in suspected houses to be evidence that they are common gaming houses

7 If any person found in any common gaming house entered by any Magistrate or officer of police under the provisions of this Act, upon being arrested by any such officer, or upon being brought before any Magistrate, on being required by such officer or Magistrate to give his name and address, shall refuse or neglect to give the same, or shall give any false name or address, he may, upon conviction before the same or any other Magistrate, be adjudged to pay any penalty not exceeding five hundred rupees, together with such costs as to such Magistrate shall appear reasonable, and on the non-payment of such penalty and costs, or in the first instance if to such Magistrate it shall seem fit, may be imprisoned for any period not exceeding one month

Penalty for giving false name or address

8. On conviction of any person for keeping or using any such common gaming-house, or being present therein for the purpose of gaming, the convicting Magistrate may order all the instruments of gaming found therein to be destroyed, and may also order all or any of the securities for money, and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof with all moneys seized therein to be forfeited, or in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled.

Destruction of instruments of gaming.

9. It shall not be necessary, in order to convict any person of keeping a common gaming-house, or of being concerned in the management of any common gaming-house, to prove that any person found playing therein at any game was playing for any money, wager or stake

Proof of playing for stakes unnecessary.

10. Nothing in the foregoing provisions of this Act contained shall be held to apply to billiards, whist or any other game of mere skill wherever played.

Act not to apply to certain games.

11. A police-officer may apprehend without warrant any person found playing for money or other valuable thing with cards, dice, counters or other

Gaming and setting birds and animals

## THE BENGAL PUBLIC GAMBLING ACT, 1867 [Ben. Act 2 of 1867]

(Secs 12-14)

to fight in  
public streets

instruments of gaming, used in playing any game not being a game of mere skill, in any public market, fair, street, place or thoroughfare situated within the limits aforesaid, or any person setting any birds or animals to fight in any public market, fair, street, place or thoroughfare situated within the limits aforesaid, or any person there present aiding and abetting such public fighting of birds and animals

Such person, when apprehended, shall be brought without delay before a Magistrate, and shall be liable to a fine not exceeding fifty rupees, or to imprisonment, either simple or rigorous, for any term not exceeding one calendar month, and such police-officer may seize all birds and animals and instruments of gaming found in such public place or on the person of those whom he shall so arrest, and the Magistrate may, on conviction of the offender, order such instruments to be forthwith destroyed, and such birds and animals to be sold.

Offences by  
whom triable.

12 Offences punishable under this Act shall be triable by any Magistrate having jurisdiction in the place where the offence is committed.

But such Magistrate shall be restrained within the limits of his jurisdiction under the Code of Criminal Procedure[1] as to the amount of fine or 25 of 1861, imprisonment he may inflict.

Penalty for  
subsequent  
offence

13 Whoever, having been convicted of an offence punishable under this Act, shall be guilty of any such offence, shall be subject for every such subsequent offence to double the amount of punishment to which he would otherwise have been liable for the same

Provided that he shall not be liable in any case to a fine exceeding six hundred rupees, or to imprisonment for a term exceeding one year.

Application  
of fines.

14 \* \* \* \* [2] All fines \* \* [3] imposed under this Act \* \* \* [4] shall (subject to the provisions contained in the last preceding section) be applied as the said Lieutenant-Governor shall from time to time direct.

\* \* \* \* \* [5]

[1] This reference to Act 25 of 1861 should now be read as referring to the Code of Criminal Procedure, 1898 (Act 5 of 1898)—see s. 3 of the latter Act, in General Acts, 1891-98, Ed. 1899, p. 382.

[2] The words and figures "The provisions for the recovery of fines contained in sections 64, 65, 66 and 67 of the Indian Penal Code and section 61 of the Code of Criminal Procedure shall apply to," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[3] The words "and penalties," which were repealed by the same Act, are omitted.

[4] The words "in any town or place other than the town of Calcutta; and such fines," which were repealed by the same Act, are omitted.

[5] The remaining portion of s. 14, relating to fines, which was repealed by the same Act, is omitted.

As to the recovery of fines, see now the Bengal General Clauses Act, 1898 (Ben. Act 1 of 1898), s. 26, ante, p. 13.

[Ben Act 2 of 1867] THE BENGAL PUBLIC GAMBLING ACT, 1867  
(Secs 15, 16)

[Ben. Act 3 of 1897] THE BENGAL RAIN-GAMBLING ACT, 1897  
(Sec 1)

45 of 1860 15 Anything made punishable by this Act shall be deemed to be an "offence" within the meaning of the Indian Penal Code [1]

Application of definition of "offence" in Indian Penal Code. Certain sections to apply without extension.

16 The provisions of sections 7 and 11 of this Act shall \* \* \* [2] apply to the town of Calcutta, and to the suburbs of the town of Calcutta as the same may be from time to time defined by any notification published by the Lieutenant-Governor in pursuance of Act 2 of 1866 [3] passed by the Lieutenant Governor of Bengal in Council, and the provisions of section 13 of this Act shall \* \* \* [2] apply to the whole of the said territories

17. [Repeal of sections of Bengal Acts 2 and 4 of 1886] Rep by the Repealing and Amending Act, 1903 (1 of 1903)

## THE BENGAL RAIN-GAMBLING ACT, 1897

(BENGAL ACT 3 OF 1897). [4]

[26th May, 1897]

An Act for the suppression of Rain-gambling in common gaming-houses.

WHEREAS it is expedient to amend the law in force in Bengal so as to secure the suppression of the practice of rain-gambling in common gaming-houses, It is hereby enacted as follows:—

1. (1) This Act may be called the Bengal Rain-gambling Act, 1897; and
- (2) It shall come into force on the day [5] on which it is first published in the Calcutta Gazette after having received the assent of the Governor General.

Short title and commencement.

[1] Printed in the General Acts, 1834-67, Ed., 1898, p 220

[2] Formal words which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted

[3] The Calcutta Suburban Police Act, 1866 It is printed in Vol. IV of this Code

[4] LEGISLATIVE PAPERS — For Statement of Objects and Reasons, see Calcutta Gazette, 1897, Pt IV, p 36, for Report of Select Committee, see *ibid.*, p. 37; and for Proceedings in Council, see *ibid.*, Supplement, 1897, pp 1203, 1266 and 1699.

LOCAL EXTENT.—The local extent of the several operative clauses of this Act is the same as that of the Acts which they respectively amend

The application of the Act is barred in the de-regulationised tracts in Bengal as follows, namely:—

in the Angul District, by the Angul District Regulation, 1894 (1 of 1894), s 3 (2), *ante*, p. 257,  
in the Chittagong Hill-tracts, by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900),  
s. 4 (2), *ante*, p. 232, and

in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872),  
s. 3 (2), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3, *ante*, p. 294.

[5] *i.e.*, the 26th May, 1897.



## THE BENGAL RAIN GAMBLING ACT, 1897 [Ben. Act 3 of 1897]

(Secs 2-4)

(3) Section 4 shall further be deemed to be in force on and from the said day in every city, town or place to which Bengal Act 2 of 1867<sup>[1]</sup> (*an Act to provide for the punishment of public gambling and the keeping of common gaming-houses in the territories subject to the Lieutenant-Governor of Bengal*), or any part thereof, has before that day been extended by notification under its second section

Amendment  
of Bengal  
Act 4, 1866,  
section 3

2 (1) To the definition of "common gaming-house" in section 3 of the Calcutta Police Act, 1866,<sup>[2]</sup> the following shall be added, namely —

Ben Act 4 of  
1866

"or in which rain-gambling, that is to say, wagering on the occurrence or non-occurrence of rain, is carried on for the profit or gain of any such person as aforesaid"

(2) After the said definition the following shall be inserted, namely .

"'gaming' shall include rain-gambling,

'instruments of gaming' shall include books or registers in which rain-gambling wagers are entered, all other documents containing evidence of such wagers, and any thing used as a means of rain-gambling."

Amendment  
of Act 21,  
1857, section  
59

3 To section 59 of Act 21 of 1857 <sup>[3]</sup> (*an Act to make better provision for the order and good government of the station of Howrah*) the following shall be added, namely —

"'common gaming-house' shall include any house, tent, room, space or walled enclosure in which rain-gambling, that is to say, wagering on the occurrence or non occurrence of rain, is carried on for the profit or gain of the person owning, occupying, using or keeping such house, tent, room, space or enclosure ,

'gaming' shall include rain-gambling , and

'instruments of gaming' shall include books or registers in which rain-gambling wagers are entered, all other documents containing evidence of such wagers, and anything used as a means of rain-gambling."

Amendment  
of Bengal  
Act 2, 1867,  
section 1.

4. (1) To the definition of "common gaming-house" in section 1 of Bengal Act 2 of 1867 <sup>[1]</sup> (*an Act to provide for the punishment of public gambling and the keeping of common gaming-houses in the territories subject to the Lieutenant-Governor of Bengal*) the following shall be added, namely .—

[Printed ante, p. 561]

(2) After the said definition the following shall be inserted, namely :—

[Printed ante, p. 561.]

[1] The Bengal Public Gambling Act, 1867. It is printed ante, p. 560.

[2] Printed in Vol. IV of this Code.

[3] The Howrah Offences Act, 1857. It is printed in Vol. II of this Code.

# GHATWALI LANDS.

Reg 29 of 1814 . . .	the Bengal Ghatwali Lands	
	Regulation, 1814	page 567
Act 5 of 1859 . . .	the Bengal Ghatwali Lands	
	Act, 1859 . . .	„ 570

## THE BENGAL GHATWALI LANDS REGULATION, 1814 [1]

(REGULATION 29 of 1814).

[3rd December, 1814]

### A Regulation for the settlement of certain mahals in the district of Birbhum, usually denominated the Ghatwali Mahals.

1. WHEREAS the lands held by the class of persons denominated Ghatwals in the district of Birbhum, form a peculiar tenure to which the provisions of the existing Regulations are not expressly applicable,

And whereas every ground exists to believe that, according to the former usages and constitution of the country, this class of persons are entitled to hold their lands, generation after generation, in perpetuity, subject nevertheless to the payment of a fixed and established rent to the zamindar of Birbhum and

[1] SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), printed *ante*, p. 18

LOCAL EXTENT.—This Regulation was passed only for the district of Birbhum—*see* the title and ss 1 and 2

The first paragraph of section 5 has, however, since been extended (in a restricted and modified form), by notification under the Scheduled Districts Act, 1874 (14 of 1874), s 5, to Pargana Barabhum, in the Manbhum District, in the Chota Nagpur Division—*see* the foot-note to s 5 on page 569, *post*

The Regulation has also been declared in force in the Sonthal Parganas—*see* Vol. V, Part VI B (c)

REPRINT.—This Regulation is reprinted in the Sonthal Parganas Manual, 1898, pp. 23, 24

LEASES.—As to power of holders of ghatwali lands to grant leases, *see* the Ghatwali Lands Act, 1859 (5 of 1859), *post*, p. 570.

NON APPLICATION OF BENGAL TENANCY ACT.—The Bengal Tenancy Act, 1885 (8 of 1885), does not affect any incident of a ghatwali tenure—*see* s 181 of that Act, in Vol. II of this Code.

APPLICATION OF RURAL POLICE REGULATION.—The word “zamindar,” as used in the Sonthal Parganas Rural Police Regulation, 1900 (3 of 1900), includes the Ghatwals of Tupah Surath Deoghur, whose tenures are subject to the provisions of Reg. 29 of 1814—*see* the Sonthal Parganas Rural Police Regulation, 1900 (3 of 1900), s 3 (c), *ante*, p. 335.

As to the formation of circles, for the purposes of Regulation 3 of 1900, in ghatwals subject to Reg. 29 of 1814, *see* *ibid*, s 4, *ante*, p. 336

TREATISE.—For a treatise on ghatwali lands, *see* “Ghatwali and Mui Raiyati Tenures, as found in the Deoghur sub-division of the district of the Sonthal Parganas,” by Herbert H. Heard [1900].

to the performance of certain duties for the maintenance of the public peace and support of the police,

And whereas the rents payable by those tenants have been recently adjusted, after a full and minute inquiry made by the proper officers in the Revenue Department,

And whereas it is essential to give stability to the arrangements now established among the Ghatwals, the following rules have been adopted, to be in force from the period of their promulgation in the district of Birbhum

2 A settlement having lately been made on the part of the Government with the Ghatwals in the district of Birbhum, it is hereby declared that they and their descendants in perpetuity shall be maintained in possession of the lands so long as they shall respectively pay the revenue at present assessed upon them, and that they shall not be liable to any enhancement of rent so long as they shall punctually discharge the same and fulfil the other obligations of their tenure

3 The ghatwali lands shall be considered, as at present, to form a part of the zamindari of Birbhum, but the rents of Ghatwals shall be paid direct to the Assistant Collector stationed at Suri, or to such other public officer as the Board of Revenue[1] \* \* \* [2] may direct to receive the rents

4 The difference between the amount of the revenue assessed on the Ghatwals and the fixed assessment of revenue in this portion of the zamindari of Birbhum payable to Government shall be paid to the zamindar of Birbhum and his heirs and successors, in perpetuity

5. Should any of the Ghatwals at any time fail to discharge their stipulated rents, it shall be competent for the Governor General in Council [3]

to cause the ghatwali tenure of such defaulter to be sold by public sale in satisfaction of the arrears due from him, in like manner, and under the same rules, as lands held immediately of Government, or to make over the tenure of such defaulter to any person whom the Governor General in Council [3] may approve on the condition of making good the arrear due; or

to transfer it by grants assessed with the same revenue, or with an increased or reduced assessment, as to the Government may appear meet, or

[1] As to exercise of functions of the Board of Revenue by other authorities, see the references cited in the foot-note on page 75, ante.

[2] The words "with the sanction of the Governor General in Council," which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

[3] The words "Governor General in Council" in s. 5 are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), ante, p. 41.

Ghatwals in Birbhum, and their descendants in perpetuity, to be maintained in possession of lands, and not liable to enhancement of rent. Ghatwali lands to form part of zamindari of Birbhum. Rents how paid. Amount payable to zamindar of Birbhum.

Disposal of tenure of Ghatwals failing to discharge rents.

## of 1814 ] THE BENGAL GHATWALI LANDS REGULATION, 1814

to dispose of it in such other form and manner as shall be judged by the Governor General in Council [1] proper [2]

Should any increase of revenue be obtained from the operation of any arrangements of the nature above described, such increase shall be paid in conformity to the tenor of the preceding article to the zamindar of Birbhūm, his heirs and successors

[1] The words "Governor General in Council" in s. 5 are to be read as if the words "Local Government" were substituted therefor—see the Repealing and Amending Act, 1903 (1 of 1903), ante, p. 41

[2] This paragraph has been extended to Pargana Barabhum by the following Notification —

No 1246 L R, dated the 7th March 1903, published in the Gazette of India of 14th idem, Pt I, p 191, and in the Calcutta Gazette of 11th idem, Pt I, p 3131 — "In exercise of the powers conferred by sections 5 and 5A of the Scheduled Districts Act, 1874, and with the previous sanction of the Governor General in Council, the Lieutenant-Governor is pleased to extend to pargana Barabhum in the district of Munbhūm the first paragraph of section 5 of Bengal Regulation, 29 of 1814 (*a Regulation for the settlement of certain Mahals in the district of Birbhūm, usually denominated the Ghatwali Mahals*) in the following restricted and modified form —

Paragraph 1 of section 5 of Bengal Regulation, 29 of 1814, as extended to pargana Barabhum

Should any of the ghatwals at any time fail to pay the amount of any decree obtained against him in a competent Court for the rent of his tenure, or for any sum payable in respect of his tenure under the Cess Act, 1880, it shall be competent for the Commissioner, if written application is made to him by the decree-holder within three years from the date of the decree, or (if the decree was made before the date of this notification, and the execution thereof has not at that date been barred by limitation) within six months from the date of this notification, either —

to make over the tenure of such defaulter to any person whom the Commissioner may approve, on the condition of his paying the amount of the decree, and also on the same conditions in respect to the payment in future of rent and cesses and the performance of the duties for the maintenance of the public peace to which the defaulter was liable at the time when the tenure was so made over, or

to cause the tenure of such defaulter to be sold by public auction, in satisfaction of the arrears due from him under the procedure prescribed in Act 11 of 1859 (*an Act to improve the law relating to sales of land for arrears of revenue in the Lower Provinces under the Bengal Presidency*), and subject to all provisions of that Act so far as they can be made applicable, and subject also to the same conditions in respect to the payment in future of rent and cesses and the performance of the duties for the maintenance of the public peace to which the defaulter was liable at the time of the sale, or

to dispose of the case in such manner as shall be judged by the Commissioner proper "

THE BENGAL GHATWALI LANDS ACT, 1859 [Act 5 of 1859.]

(Secs 1, 2)

## THE BENGAL GHATWALI LANDS ACT, 1859

(ACT 5 OF 1859) [1]

[4th March, 1859.]

Preamble

An Act to empower the holders of ghatwali lands in the district of Birbhum to grant leases extending beyond the period of their own possession

WHEREAS it has been held that the ghatwals of the district of Birbhum who pay the revenue of their lands directly to Government under the provisions of Regulation 29, 1814, [2] of the Bengal Code have not the power of alienating their lands,

And whereas, for the development of the mineral resources of the country in which the said ghatwali lands are situate, and for the improvement of the said lands, it is expedient that the power of granting leases for periods not limited by the term of their own possession should in certain cases be extended to the possessors of such lands,

It is enacted as follows —

Right of  
ghatwals of  
Birbhum to  
grant leases

1 Ghatwals holding lands in the district of Birbhum under the provisions of the aforesaid Regulation shall have the same power of granting leases for any period which they may deem most conducive to the improvement of their tenures as is allowed by law to the proprietors of other lands

PROVIDED

Provided that no lease of ghatwali lands for any period extending beyond the lifetime or incumbency of the grantor of the lease shall be valid and binding on the successors of the grantor, unless the same shall be granted for the working of mines or for the clearing of jungle, or for the erection of dwelling-houses or manufactories, or for tanks, canals and similar works, and shall be approved by the Commissioner of the Division, such approval being certified by an endorsement on the lease under the signature of the Commissioner.

Court of  
Wards and  
revenue  
authorities  
have like  
power in  
certain cases.

2 If any of the said ghatwali lands be at any time under the superintendence of the Court of Wards, or otherwise subject to the direct control of the officers of Government, it shall be lawful for the Court of Wards or the Commissioner to grant leases for any such purpose as aforesaid, and every lease so granted shall be valid and binding on all future possessors of the said lands, anything in the existing law to the contrary notwithstanding.

[1] SHORT TITLE. — This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), printed *ante*, p. 18.

LOCAL EXTENT. — This Act was passed only for the district of Birbhum — see the title and p. 1. It has, however, since been declared in force in the Southal Parganas — see Vol. V, Part I, B. (c).

REPRINT. — This Act is reprinted in the Southal Parganas Manual, 1898, p. 28.

[2] The Bengal Ghatwali Lands Regulation, 1814. It is printed *ante*, p. 567.

[Reg. 4 of 1904] THE ANGUL DISTRICT (AMENDMENT) REGULATION,  
1904

(Secs 1-5)

THE ANGUL DISTRICT (AMENDMENT) REGULATION,  
1904

(REGULATION 4 OF 1901) [1]

[23rd November, 1904]

A Regulation to amend the Angul District Regulation, 1894.

1 of 1894

WHEREAS it is expedient to amend the Angul District Regulation, 1894, [2] in manner hereinafter appearing, It is hereby enacted as follows —

1 This Regulation may be called the Angul District (Amendment) Regulation, 1904 Short title2 In section 2 [2] of the Angul District Regulation, 1894, for the words “that portion of Killah Bod” the words “the area” shall be substituted Amendment of section 2 of Regulation 1 of 18943 To sub-section (2) of section 3 [2] of the said Regulation the following shall be added, namely — Addition to section 3

“*Explanation* —Enactments which are not comprised in the Schedule, and which have not been extended as aforesaid shall not be deemed to be in force in the district of Angul or any part thereof merely on the ground that they are referred to in some enactment which is so in force”

4 For the words “Tahsildar” and “Tahsildars,” wherever they occur in the said Regulation, the words “Sub-divisional Officer” and “Sub-divisional Officers” respectively shall be substituted Substitution of “Sub-divisional Officer” for “Tahsildar”5. (1) For clause (e) [3] of section 10 of the said Regulation the following shall be substituted, namely — Amendment of section 10

‘ (e) ‘Deputy Collector and Deputy Magistrate shall include any Sub-Deputy Collector who is specially empowered by the Local Government to discharge the functions of a Deputy Collector in the district of Angul, and ’’.

(2) In clause (j) [3] of the same section, for the words “any such demand as is mentioned in clause (e)” the following shall be substituted, namely. —

“any demand due to the Government and accruing within the district of Angul”

[1] LOCAL EXTENT —The local extent of this Regulation is the same as that of the Angul District Regulation, 1904 (1 of 1904), as to which see the first foot-note on p 257, *ante*

[2] Printed *ante*, p 257.

[3] Printed *ante*, p. 260

THE ANGUL DISTRICT (AMENDMENT) REGULATION, 1901 [Reg 4  
(Secs 6-8)]

New section  
11

6 For section 11 [1] of the said Regulation the following shall be substituted, namely —

“11 There shall ordinarily be the following Courts in or for the district of Angul, and they shall be subject to the general superintendence and control of the

Courts

Local Government —

- (1) the Court of the Honorary Magistrate or Bench of Magistrates,
- (2) the Court of the Deputy Collector and Deputy Magistrate,
- (3) the Courts of the Sub-divisional Officers of Angul and of the Khondmals,
- (4) the Court of the Deputy Commissioner,
- (5) the Court of the Superintendent, and
- (6) the Court of the Commissioner of Excise”

Repeal of  
part of section  
12

7 The words “with the previous sanction of the Governor General in Council,” in section 12 [1] of the said Regulation, are hereby repealed

New section  
13

8 For section 15 [2] of the said Regulation the following shall be substituted, namely —

“15 (1) The Courts mentioned in section 11 shall ordinarily have the

Powers of Courts

powers specified in the following table —

NAME OF CODE	REVENUE POWERS	CRIMINAL POWERS	CIVIL POWERS.
1	2	3	4
1 The Court of the Honorary Magistrate or Bench of Magistrates		The ordinary powers of a Magistrate of the third class, as defined in the Code of Criminal Procedure, 1898 [3]	
2 The Court of the Deputy Collector and Deputy Magistrate.	Powers corresponding to those of a Deputy Collector under any law for the time being in force in the district of Angul	The ordinary powers of a Magistrate of the second class, as defined in the Code of Criminal Procedure, 1898. [3]	Powers corresponding to those of a Civil Court, as defined in the Code of Civil Procedure, [4] to try original civil suits of which the value does not exceed one hundred rupees.

5 of 1898.

5 of 1898.  
14 of 1892

[1] Printed *ante*, p. 260.

[2] Printed *ante*, p. 261.

[3] Printed, General Acts, 1891-98, Ed. 1899 p. 352.

[4] Printed, General Acts, 1882-84, Ed. 1898, p. 262.

## of 1904 ] THE ANGUL DISTRICT (AMENDMENT) REGULATION, 1904

(Sec 8)

NAME OF CODE	REVENUE POWERS	CRIMINAL POWERS	CIVIL POWERS
1	2	3	4
<p>3 The Court, of the Sub divisional Officers of Angul and of the Khondmals</p> <p>14 of 1882 5 of 1898</p> <p>9 of 1887</p>	<p>Powers corresponding to those of a Deputy Collector under any law for the time being in force in the district of Angul</p>	<p>The ordinary powers of a Sub divisional Magistrate of the first class, as defined in the Code of Criminal Procedure, 1898 [1]</p>	<p>Powers corresponding to those of a Civil Court, as defined in the Code of Civil Procedure, [2] to try original civil suits of which the value does not exceed five hundred rupees</p> <p>Powers of a Court of Small Causes under the Provincial Small Cause Courts Act, 1887 [3], the limit of powers in each case to be decided by the Local Government</p>
<p>4. The Court of the Deputy Commissioner</p> <p>14 of 1882. 5 of 1898.</p>	<p>Powers corresponding to those of a Collector under any law for the time being in force in the district of Angul</p>	<p>The ordinary powers of a District Magistrate and of a Sessions Judge, as defined in the Code of Criminal Procedure, 1898 [1]</p>	<p>Powers corresponding to those of a District Judge, as defined in the Code of Civil Procedure [2] to try original civil suits and appeals without limit as respects the value</p>
<p>5 The Court of the Superintendent</p> <p>5 of 1898 14 of 1882</p>	<p>Powers corresponding to those of a Commissioner and of the Board of Revenue under any law for the time being in force in the district of Angul, except in matters relating to excise</p>	<p>The ordinary powers of a High Court, as defined in the Code of Criminal Procedure, 1898, [1] except in regard to criminal proceedings against European British subjects or persons jointly charged with European British subjects.</p>	<p>Powers corresponding to those of a High Court, as defined in the Code of Civil Procedure [2]</p>
<p>6 The Court of the Commissioner of Excise.</p>	<p>Powers in regard to matters relating to the administration of excise.</p>	<p>The powers of a Commissioner under any law for the time being in force in the district of Angul in matters relating to excise</p>	

[1] Printed, General Acts, 1891-98, Ed 1899, p 352

[2] Printed, General Acts, 1882-84, Ed, 1898, p 262

[3] Printed, General Acts, 1885-90, Ed. 1898, p 128.



of 1904 ] THE ANGUL DISTRICT (AMENDMENT) REGULATION, 1904  
(Sec 8)

NAME OF CODE	REVENUE POWERS	CRIMINAL POWERS	CIVIL POWERS
1	2	3	4
<p>3 The Courts of the Sub divisional Officers of Angul and of the Khondmals</p> <p>14 of 1882 5 of 1898</p> <p>9 of 1887</p>	<p>Powers corresponding to those of a Deputy Collector under any law for the time being in force in the district of Angul</p>	<p>The ordinary powers of a Sub divisional Magistrate of the first class as defined in the Code of Criminal Procedure, 1898 [1]</p>	<p>Powers corresponding to those of a Civil Court, as defined in the Code of Civil Procedure, [2] to try original civil suits of which the value does not exceed five hundred rupees Powers of a Court of Small Causes under the Provincial Small Cause Courts Act, 1887 [3], the limit of powers in each case to be decided by the Local Government</p>
<p>4 The Court of the Deputy Commissioner</p> <p>14 of 1882. 5 of 1898</p>	<p>Powers corresponding to those of a Collector under any law for the time being in force in the district of Angul</p>	<p>The ordinary powers of a District Magistrate and of a Sessions Judge, as defined in the Code of Criminal Procedure, 1898 [1]</p>	<p>Powers corresponding to those of a District Judge, as defined in the Code of Civil Procedure [2] to try original civil suits and appeals without limit as respects the value</p>
<p>5 The Court of the Superintendent</p> <p>5 of 1898. 14 of 1882</p>	<p>Powers corresponding to those of a Commissioner and of the Board of Revenue under any law for the time being in force in the district of Angul, except in matters relating to excise.</p>	<p>The ordinary powers of a High Court, as defined in the Code of Criminal Procedure, 1898, [1] except in regard to criminal proceedings against European British subjects or persons jointly charged with European British subjects</p>	<p>Powers corresponding to those of a High Court, as defined in the Code of Civil Procedure [2]</p>
<p>6 The Court of the Commissioner of Excise</p>	<p>Powers in regard to matters relating to the administration of excise</p>	<p>The powers of a Commissioner under any law for the time being in force in the district of Angul in matters relating to excise</p>	

[1] Printed, General Acts, 1891-98, Ed 1899, p 352

[2] Printed, General Acts, 1882-84, Ed. 1898, p. 262

[3] Printed, General Acts, 1885-90, Ed. 1898, p. 128.

THE ANGUL DISTRICT (AMENDMENT) REGULATION, 1904 [Reg 4  
(Secs 9-12)

- (2) The Local Government may, by notification in the Calcutta Gazette,—
- (a) confer upon any Court mentioned in column 1 of the foregoing table any further powers in addition to those specified in respect of such Court in that table, or
  - (b) withdraw from any such Court any of the powers so specified, or
  - (c) authorise the Board of Revenue to exercise supervision and control over any such Court in all or any matters relating to revenue "

New section  
39

9. For section 39 [1] of the said Regulation the following shall be substituted, namely —

" 39 (1) The Sub-divisional Officer shall not proceed against any immovable property of a raiyat unless and until he has satisfied himself that the raiyat has no moveable property by the sale of which the sum due from him can be realised

(2) No immovable property of a raiyat shall be sold without an order from the Deputy Commissioner

(3) The Deputy Commissioner may order either the sale of such property or the ejectment of the raiyat from his holding "

New section  
41A

10. After section 41 [1] of the said Regulation the following shall be inserted, namely .—

" 41 A. Rent due to a sarbarakar who, under the terms of the settlement made with him, has previously paid the amount thereof to the Government, may be realised under this Chapter as if it were a sum due to the Government "

Amendment  
of section 42

11. In section 42 [1] of the said Regulation, before the word "appoint" the words " after consulting the residents " shall be inserted.

New section  
43.

12. For section 43 [1] of the said Regulation the following shall be substituted, namely —

Constitution of villages, and realisation of chauthdari dues " 43. (1) The Deputy Commissioner may, from time to time, by written order,—

- (a) declare any local area or group of dwellings to be a village for the purposes of this Chapter, and
- (b) direct each house-holder of the village to make a monthly or annual payment, in money or in grain, or in both, of such amount as may be fixed by the Deputy Commissioner after consulting the residents, for the salary and uniform of the village chauthdar.

(2) The said payments shall be made to the headman, sarbarakar or other person appointed by the Deputy Commissioner in this behalf.

## of 1904.] THE ANGUL DISTRICT (AMENDMENT) REGULATION, 1904

(Secs 13-15)

(3) It shall be the duty of the person so appointed to see that the said payments are punctually made, and duly to account for the same, and any neglect of such duty shall be punishable with fine which may extend to ten rupees

(4) All arrears of the said payments may be realised from the said householders, under the written order of the Deputy Commissioner in each case, by sale of the defaulter's moveable property

(5) The Deputy Commissioner may authorise the Sub-divisional Officer to exercise all or any of his powers under this section "

13 (1) In clause *first* [1] of section 47 of the said Regulation, after the words 'hurt, riot,' the following shall be inserted, namely —

Amendment  
of section 47

"administering stupefying or intoxicating drugs with intent to cause hurt, kidnapping, unlawful assembly or violent affray "

(2) In clause *second* [1] of the same section, after the word "offenders" the words "and escaped convicts" shall be inserted, and after the word "specified" the following shall be inserted, namely —

"also any person against whom a hue and cry has been raised of his having been concerned in any such offence, whether such offence has been or is being committed within or outside his village "

(3) To clause *third* [2] of the same section the following shall be added, namely —

"the movements of any other person who may be lurking in such village without any ostensible means of subsistence or who cannot give a satisfactory account of himself, and the permanent or temporary residence in such village of any notorious receiver or vendor of stolen property "

(4) In clause *fourth* [2] of the same section, after the words "suspicious characters" the words "or vagrants or wandering gangs" shall be inserted.

14 Before section 55 [3] of the said Regulation the following sections shall be inserted, namely —

New sections  
54A and 54B

"54A. No transfer of a tenure or holding shall be valid without the consent of the Deputy Commissioner or Sub-divisional Officer

Transfer of tenures or holdings,

"54B A tenant shall not be ejected from his tenure or holding without an order of the Deputy Commissioner."

Ejection of tenants

15 In section 60 [4] of the said Regulation, after the word "and" the words "except in so far as the Local Government otherwise directs" shall be inserted.

Amendment  
of section 60.[1] Printed *ante*, p 267.[2] Printed *ante*, p 268[3] Printed *ante* p 270[4] Printed *ante*, p 271.

THE SONTHAL PARGANAS SETTLEMENT REGULATION, 1904 [Reg 2  
(Secs 1, 2)]

THE SONTHAL PARGANAS SETTLEMENT REGULATION, 1904

(REGULATION 2 OF 1904) [1]

[24th August, 1904]

A Regulation to provide for the apportionment and recovery of expenses incurred by the Government in certain settlement proceedings taken under section 9 of the Sonthal Parganas Settlement Regulation

WHEREAS, under section 9 [2] of the Sonthal Parganas Settlement Regulation, the Lieutenant Governor of Bengal may declare that a settlement shall be made of the whole or any part of the Sonthal Parganas for the purpose of ascertaining and recording the various interests and rights in the land to be so brought under settlement, but no provision has been made for the recovery of expenses incurred by the Government in respect of such settlement, It is hereby enacted as follows —

1. (1) This Regulation may be called the Sonthal Parganas Settlement Regulation, 1904, and

(2) It shall be read with, and taken as part of, the Sonthal Parganas Settlement Regulation

2. When, under section 9 [2] of the Sonthal Parganas Settlement Regulation, the Lieutenant-Governor declares that a settlement shall be made of the whole or any part of the Sonthal Parganas for the purpose of ascertaining and recording the various interests and rights in the land so to be brought under settlement, he may, save when a settlement of land-revenue is about to be made in respect of such land, order that the whole or any part of the expenses incurred by the Government in connection with such settlement, including the expenses of and incidental to any surveys that may have been necessary, as also the expenses that may be incurred from time to time in the maintenance of boundary and other survey marks erected for the purposes of such settlement, shall be borne by the owners, occupiers and village headmen of the land so brought under settlement, or by any one or more of them to the exclusion of the others or other of them,

[1] LOCAL EXTENT. — Since this Regulation is [see s 1 (2)] to be read with, and taken as part of, Reg. 2 of 1872, its local extent is the same as that of the latter Regulation, as to which see foot-note on p. 293, *ante*.

[2] Printed *ante*, p. 293.

Short title  
and construction.

Apportionment of  
expenses

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(Secs 3-5)

in such manner and in such shares or proportions as he may, having regard to all the circumstances of the case, deem just and equitable

3. Where any such owner, occupier or village headman dies or transfers his interest in the land so brought under settlement, or any part thereof, before payment of the expenses ordered under section 2 to be borne by him, the Deputy Commissioner may recover the same from the representatives of the deceased person or from the transferor, as the case may be, or from the person in possession of the interest of the deceased person or transferor or of any part thereof, or from any of them, without prejudice to any agreement as to how or in what proportion such expenses are to be ultimately borne

Provision  
in case of  
devolution  
or transfer of  
interest in  
land settled

4 Every sum of money due from any person under the provisions of this Regulation shall be recoverable from him as an arrear of land-revenue [1]

Mode of  
recovery

5 This Regulation shall be deemed to apply also in the case of any settlement under section 9 [2] of the Sonthal Parganas Settlement Regulation, which, though begun, has not been completed before the commencement of this Regulation

Regulation  
to have re-  
trospective  
effect

3 of 1872

[1] See the enactments printed under the head "Recovery of Public Demands" in Vol IV of this Code

[2] Printed *ante*, p 296.





